



ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲ್

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು
ವೀರೇಷ ರಾಜ್ಯ ಪತ್ರಿಕೆ

ಭಾಗ - ೪	ಬೆಂಗಳೂರು, ಪ್ರತಿವಾರ, ೧೪, ಮಾರ್ಚ್, ೨೦೨೫(ಫಾಲ್ಗುನ, ೨೩, ಶಕವರ್ಷ, ೧೯೪೬)	ನಂ. ೧೫೦
Part - IVA	BENGALURU, FRIDAY, 14, MARCH, 2025(PHALGUNA , 23, SHAKAVARSHA, 1946)	No. 150

PERSONNEL AND ADMINISTRATIVE REFORMS SECRETARIAT (ELECTIONS)

NOTIFICATION

DPAR 16 CHUTHAA 2025, Bengaluru, Dated: 14.03.2025

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi – 110001

No: 82/KT-HP/1&2/2019

Dated: 13th September, 2023
22 Bhadra, 1945 (Saka)

NOTIFICATION

No:82/KT-HP/1&2/2019 - In pursuance of Section 106 (a) of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the judgment / order of the High Court of Karnataka, Bengaluru, dated: 01.09.2023 passed in the Election Petition No. 1 of 2019 & the Election Petition No.2 of 2019.

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

ELECTION PETITION NO.1 OF 2019

CONNECTED WITH

ELECTION PETITION NO.2 OF 2019

IN E.P. No.1 OF 2019

BETWEEN

1 . SRI A. MANJU
S/O LATE ANNAIAH GOWDA,
AGED ABOUT 61 YEARS,
R/AT HANYALU VILLAGE,
ANANDUR POST,
ARKALGUD TALUK,
HASSAN DISTRICT - 573 102.

...PETITIONER

(SRI. S. SREEVATSA, SENIOR ADVOCATE
FOR SRI. M.R. VIJAYAKUMAR, ADVOCATE
AND SRI. SUNIL M.V., ADVOCATE)

AND

1 . SRI. PRAJWAL REVANNA @ PRAJWAL R.
S/O H.D. REVANNA,
AGED ABOUT 28 YEARS,
R/AT NO.43, PADAVALAHIPPE
VILLAGE AND POST,
KASABA HOBLI,
HOLENARASIPURA TALUK,
HASSAN DISTRICT-573211.

- 2 . SRI K.H. VINOD RAJ
S/O HANUMANTHAIAH,
AGED ABOUT 29 YEARS,
R/AT NO.562/2, AMBEDKAR NAGAR,
KONANURU, ARKALGUD TALUK,
HASSAN DISTRICT - 573 102.
- 3 . SRI H.M. CHANDREGOWDA
S/O SRI MALLALIGOWDA,
AGED ABOUT 65 YEARS,
NO.54, HONASHATTIHALLI,
SRINIVASAPURA POST,
CHANNARAYAPATNA TALUK,
HASSAN DISTRICT - 573 211.
- 4 . M. MAHESH @ LOKESH
S/O LATE SRI H.C. MANJAPPA SHETTY,
AGED ABOUT 49 YEARS,
R/AT DOOR NO.349,
SAISADANA,
HEMAVATHINAGAR,
NEAR CHANNAMBIKA THEATRE,
HOLENARASIPURA TALUK,
HASSAN DISTRICT - 573 211.
- 5 . SRI R G SATISHA
S/O LATE SRI GOWDEGOWDA,
AGED ABOUT 48 YEARS,
R/AT RAMADEVARAPURA VILLAGE,
YELGUNDA POST,
SALAGAMI HOBLI,
HASSAN DISTRICT - 573 219.

...RESPONDENTS

(BY SRI UDAY HILLA, SENIOR ADVOCATE
FOR SRI. M. KESHAVA REDDY, ADVOCATE FOR R1
MS. AKKAMAHADEVI HIREMATH, ADVOCATE FOR R2
SRI. A. MANJUNATH, ADVOCATE FOR R3
SRI. MAHESH R. UPPIN, ADVOCATE FOR R5
NOTICE TO R4 IS HELD SUFFICIENT)

THIS ELECTION PETITION IS FILED UNDER SECTION 81 OF REPRESENTATION OF PEOPLES ACT, 1951, CHALLENGING THE ELECTION OF RESPONDENT NO.1, RETURNED CANDIDATE SRI.PRAJWAL REVANNA @ PRAJWAL R. FROM 16 HASSAN (GENERAL) PARLIAMENTARY CONSTITUENCY HELD IN THE YEAR 2019 AND PRAYING TO: (A) CALL FOR ENTIRE RECORDS PERTAINS TO THE ELECTION OF 16 HASSAN (GENERAL) PARLIAMENTARY CONSTITUENCY HELD ON 18.04.2019 AND DECLARED ON 23.05.2019. (B) DECLARE THE ELECTION OF THE RETURNING CANDIDATE NAMELY 1ST RESPONDENT TO 16 HASSAN (GENERAL) PARLIAMENTARY CONSTITUENCY HELD ON 18.04.2019 DECLARED ON 23.05.2019 BY RETURNING OFFICER VIDE ANNEXURE-F AND F1 AS NULL AND VOID ON ACCOUNT OF FILING FALSE AFFIDAVIT. (C) DECLARE THE PETITIONER AS DULY ELECTED IN THE ABOVE MENTIONED ELECTION FORM 16 HASSAN (GENERAL) PARLIAMENTARY CONSTITUENCY AS A RETURNING CANDIDATE BY SECURING 2ND HIGHEST VOTE AND (D) PASS ANY OTHER APPROPRIATE ORDER/S AS THIS HON'BLE COURT DEEMS FIT AND PROPER UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE.

IN E.P. No.2 OF 2019

BETWEEN

- 1 . SRI G DEVARAJEGOWDA
SON OF LATE GUNDEGOWDA,
AGED 42 YEARS
RESIDING AT KAMASAMUDRA VILLAGE,
MAVINAKERE POST
HALEKOTE HOBLI,

HOLENARASIPURA TALUK
HASSAN DISTRICT - 573 211

...PETITIONER

(BY MS. PRAMILA NESARGI, SENIOR ADVOCATE
FOR SRI. HEMANTH KUMAR D., ADVOCATE)

AND

- 1 . SRI PRAJWAL REVANNA @ PRAJWAL R
SON OF SRI H D REVANNA
AGED ABOUT 28 YEARS
RESIDING AT NO.43,
PADAVALAHIPPE VILLAGE AND POST,
KASABA HOBLI,
HOLENARASIPURA TALUK
HASSAN DISTRICT PIN - 573 11
- 2 . SRI MANJU A.
S/O LATE ANNAIAH GOWDA,
AGED ABOUT 61 YEARS,
R/AT HANYALU VILLAGE,
ANANDUR POST,
RAMANATHAPURA HOBLI,
ARAKALGUD TALUK,
HASSAN DISTRICT-573102
- 3 . SRI VINOD RAJ K H
S/O HANUMANTHAIAH,
AGED ABOUT 29 YEARS,
R/AT NO.562/2,
AMBEDKAR NAGAR,
KONANURU,
ARAKALGUD VILLAGE,
HASSAN DISTRICT - 573 102
- 4 . SRI H M CHANDREGOWDA
S/O SRI MALLALIGOWDA,
AGED ABOUT 65 YEARS,
RESIDING AT NO.54,
HONNASHATTIHALLI,
SRINIVASAPURA POST,

CHANNARAYAPATNA TALUK,
HASSAN DISTRICT - 573 211
KARNATAKA.

- 5 . SRI M MAHESH @ LOKESH
S/O H C MANJAPPA SHETTY,
AGED ABOUT 49 YEARS,
R/AT DOOR NO.349,
SAISADANA,
HEMAVATHINAGAR,
NEAR CHANNAMBIKA THEATRE,
HOLENARASIPURA - 573 211
HASSAN DISTRICT.
- 6 . SRI R SATEESHA
S/O SRI GOWDEGOWDA,
AGED ABOUT 48 YEARS,
R/AT RAMADEVAPURA,
YELAGUNDA POST,
SALIGRAMA HOBLI,
HASSAN DISTRICT - 573 219

...RESPONDENTS

(BY SRI UDAY HILLA, SENIOR ADVOCATE FOR
SRI. M. KESHAVA REDDY, ADVOCATE FOR R1
SRI. S. SREEVATSA, SENIOR ADVOCATE FOR
SRI. M.R. VIJAYA KUMAR AND
SRI. SUNIL M.V., ADVOCATES FOR R2
MS. AKKAMAHADEVI HIREMATH, ADVOCATE FOR R3
SRI. A. MANJUNATHA, ADVOCATE FOR R4
SRI. MAHESH R. UPPIN, ADVOCATE FOR R6
NOTICE TO R5 IS HELD SUFFICIENT)

THIS ELECTION PETITION IS FILED UNDER SECTION
81 OF THE REPRESENTATION OF PEOPLES ACT, 1951,
CHALLENGING THE ELECTION OF RESPONDENT NO.1,
RETURNED CANDIDATE SRI. PRAJWAL REVANNA @ PRAJWAL
R. FROM - 16 HASSAN (GENERAL) PARLIAMENTARY
CONSTITUENCY HELD IN THE YEAR 2019 AND PRAYING TO:

(A) TO DECLARE THAT THE RESULT OF THE ELECTION SO FAR IT IS CONCERNED OF RESPONDENT NO.1 HAS BEEN MATERIALLY EFFECTED BY THE IMPROPER ACCEPTANCE OF HIS NOMINATION UNDER SECTION 100(1)(b)(d)(i)(iii)(iv) OF THE REPRESENTATION OF PEOPLE ACT, 1951, CONTRARY TO SECTION 33, 33(A)(B), RULE 4(A) AND FORM 26 AS ILLEGAL AND VOID. (B) TO DECLARE THAT ON THE DATE OF ELECTION I.E., 18.04.2019 AND ON THE DATE OF DECLARATION OF THE RESULT i.e., 23.05.2019, THE 1ST RESPONDENT HAD COMMITTED CORRUPT PRACTICE AND HE WAS NOT QUALIFIED TO BE CHOSEN TO FILL THE SEAT OF 16 - HASSAN PARLIAMENTARY CONSTITUENCY UNDER SECTION 100(1)(b)(d)(iv) OF THE REPRESENTATION OF PEOPLE ACT, 1951, (C) TO DECLARE THAT THE VOTES RECEIVED AND COUNTED IN FAVOUR OF RESPONDENT NO.1 NUMBERING 6,76,606 VOTES AD IMPROPER RECEPTION AND TREAT THEM AS VOID, WASTED AND THROWN AWAY VOTES, (D) TO DECLARE THAT THE RESULT OF RESPONDENT NO.1 OF 16 - HASSAN PARLIAMENTARY CONSTITUENCY AS NULL AND VOID, (E) TO DECLARE THAT THE RESULT OF THE ELECTION HAS BEEN MATERIALLY EFFECTED BY THE IMPROPER RECEPTION AND COUNTING OF 6,76,606 VOTES IN FAVOUR OF RESPONDENT NO.1 AS VOID UNDER SECTION 100(1)(A)(d)(iii)(iv), (F) (i) TO DECLARE THAT THE RESPONDENT NO.2 HAS RECEIVED MAJORITY OF THE VALID VOTES; (ii) THAT BUT FOR THE CORRUPT PRACTICE COMMITTED BY RESPONDENT NO.1, THE RESPONDENT NO.2 WOULD HAVE OBTAINED THE MAJORITY OF THE VALID VOTES; (iii) TO DECLARE THAT 6,76,606 VOTES RECEIVED AND COUNTED IN FAVOUR OF RESPONDENT NO.1 AS THROWN AWAY, WASTED AND INVALID AND AS VOID VOTES. (iv) FURTHER DECLARE THAT 5,35,282 VOTES RECEIVED AND COUNTED IN FAVOUR RESPONDENT NO.2 AS

VALID VOTES; AND DECLARING AS HAVING BEEN DULY ELECTED; (v) PASS SUCH OTHER SUITABLE ORDER OR ORDERS WHEREBY IN RESPECT OF PERSON/S WHO RESPONSIBLE FOR CORRUPT PRACTICE AT THE ELECTION AS GUILTY AS CONTEMPLATED UNDER SECTION 99(1)(a)(i)(ii); (G) TO DECLARE THAT IN FACT THE RESPONDENT NO.2 HAS RECEIVED MAJORITY OF THE VALID VOTES AND HE HAS TO BE DECLARED AS HAVING BEEN DULY ELECTED UNDER SECTION 98(C) OF THE REPRESENTATION OF PEOPLE ACT, 1951; (H) TO FURTHER DECLARE THAT THE VOTES OBTAINED BY RESPONDENT NO.1 IS BY CORRUPT PRACTICES AND THAT RESPONDENT NO.2 WOULD HAVE OBTAINED A MAJORITY OF THE VALID VOTES. (I) TO DECLARE THAT THE ELECTION OF 1ST RESPONDENT AS RETURNING CANDIDATE IS VOID AND FURTHER DECLARE THAT THE RESPONDENT NO.2 IS OUGHT TO HAVE BEEN DULY ELECTED UNDER SECTION 98 READ WITH SECTION 101 OF THE REPRESENTATION OF PEOPPLE ACT, 1951; (J) TO MAKE AN ORDER REGARDING THE CORRUPT PRACTICE COMMITTED BY PERSONS OTHER THAN RESPONDENT NO.1 IN THE ELECTION HELD FOR 16 -HASSAN PARLIAMENTARY CONSTITUENCY AND TO COMMUNICATE THE SAME HAVING BEEN EFFECTED AT THE TIME OF ELECTION BY FOLLOWING PERSONS VIZ. SRI.H.D. REVANNA, SRI. SURAJ AND OTHERS. (K) PASS SUCH OTHER ORDERS DEEMED NECESSARY UNDER SECTION 125(A) OF REPRESENTATION OF PEOPLE ACT, 1951 AND (L) TO AWARD COSTS AND SUCH OTHER CONSEQUENTIAL RELIEF/RELIEFS IN THE CIRCUMSTANCES OF THE CASE.

THESE ELECTION PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 19.04.2023, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

ORDER

This order has been divided into the following sections to facilitate analysis:

SL. No.	PARTICULARS	PAGE No.
1	<u>E.P. No.1/2019</u> (I) PRAYER (II) PLEADINGS (III) PLEADINGS IN RECRIMINATION PETITION (III) ISSUES	9 13 30 38
2	<u>E.P. No.2/2019</u> (i) PRAYER (ii) PLEADINGS (iii) ISSUES	10 41 73
4	DISCUSSION ON ISSUES IN BOTH ELECTION PETITIONS	78
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Election Petition No.1/2019 is filed by Sri.A.Manju (defeated candidate) under Section 81 of the Representation of People's Act, 1951, (hereinafter referred to as 'R.P. Act') praying for:-

- (a) Call for entire records pertaining to the election of 16 Hassan (General) Parliamentary constituency held on 18.04.2019 and declared on 23.05.2019.
- (b) To declare the Election of returning candidate namely, respondent No.1 to 16 Hassan General Parliamentary Constituency, held on 18.4.2019 and declared on 23.5.2019 by Returning Officer vide result declaration in Form No.21(c) and certificate of election as null and void on account of filing false affidavit.
- (c) Declare the petitioner as duly elected in the above mentioned election from 16 Hassan (General) Parliamentary Constituency as returning candidate by securing 2nd highest vote.

(d) Pass any appropriate order/s as this Court deem fit and proper.

2. **Election Petition No.2/2019** is filed by a voter Devaraje Gowda under Section 81 of the R.P. Act:-

- (a) To declare the result of the election or respondent No.1/Prajwal Revanna has been materially effected by the improper acceptance of his nominations under Section 100 (1) (b) (d) (i) (iii) (iv) of R.P. Act contrary to Sections 33, 33 (A) (B), Rule 4 (A) and Form No.26 as illegal and void.
- (b) To declare that on the date of election i.e, 18.4.2019, the date of declaration of result dated 23.5.2019, the respondent No.1 had committed corrupt practice and he was not qualified to be chosen to fill the seat of 16-Hassan Parliamentary Constitution under Section 100 (1)(b)(d)(iv) of R.P. Act.
- (c) To declare that the votes received and counted in favour of respondent No.1 numbering 6,76,606 votes has improper reception and treat them as void, wasted and thrown away votes.

- (d) To declare the result of respondent No.1 of 16-Hassan Parliamentary Constituency as null and void.
- (e) To declare the result of election has been materially effected by the improper reception and counting of 6,76,606 votes in favour of respondent No.1 as void under Section 100 (1) (A) (d) (iii) (iv).
- (f)
 - (i) To declare that the respondent No.2 (A Manju) has received majority of the valid votes,
 - (ii) that but for the corrupt practice committed by the respondent No.1, the respondent No.2 would have obtained majority of the valid votes,
 - (iii) to declare 6,76,606 votes received and counted in favour of respondent No.1 has thrown away, wasted and invalid and as void votes.
 - (iv) further declare that 5,35,282 votes received and counted in favour of the

respondent No.2 has valid votes and declaring as having been duly elected.

(v) pass such other suitable orders, whereby in respect of person/s who are responsible for corrupt practice at the election as guilty as contemplated under Section 99 (1)(a)(i)(ii).

- (g) To declare that in fact the respondent No.2 has received majority of the valid votes and he has to be declared as having been duly elected under Section 98 (c) of the R.P. Act.
- (h) to further declare that the votes obtained by respondent No.1 is by corrupt practice and that respondent No.2 could have obtained a majority of a valid votes.
- (i) to declare that the election of respondent No.1 as returning candidate is void and further declare that the respondent No.2 is ought to have been duly elected under Section 98 read with 101 of R.P. Act.
- (j) to make an order regarding the corrupt practice committed by the persons other than the respondent No.1 in the election

held for 16-Hassan Parliamentary constituency and to communicate the same having been effected at the time of election by following persons namely Sri.H.D.Revanna, Sri.Suraj and others.

(k) to pass such other orders deemed necessary under Section 125 (A) of R.P. Act and to avoid cost and such other constituency reliefs in the circumstances of the case.

3. The case of the petitioner in E.P.No.1/2019 is that the Election Commission of India (hereinafter referred to as 'Election Commission of India') issued a notification on 12.1.2019 appointing the Deputy Commissioner, Hassan as Returning Officer to 16-Hassan Parliamentary Constituency and the Returning Officer issued a notification on 19.3.2019 publishing the calendar of events by calling upon the contestants to file nominations along with affidavit in Form No.26 as per the dates prescribed as follows:-

(i)	Election Notification dated	11.3.2019
(ii)	Date of commencement of nomination	19.3.2019
(iii)	Last of date for filing nomination	26.3.2019
(iv)	Date of scrutiny nomination	27.3.2019
(v)	Date of withdrawal of nomination	29.3.2019
(vi)	Date of polling	18.4.2019
(vii)	Date of counting	23.5.2019
(viii)	Date of declaration of result	23.5.2019

4. The election was conducted by the Returning Officer appointed by ECI namely, one Akram Pasha and subsequently one Priyanka Mary Francis was replaced as Returning Officer and Deputy Commissioner of Hassan. It is alleged that the petitioner is the voter of Hanayalu village, Ramanathapura Hobli, Arakalagudu Taluk, Hassan District, within the parliamentary constituency of Hassan and his name is found in part No.278 at Sl.No.405 and he has filed nomination to contest the election. He has filed the nomination paper along with

the affidavit Form No.26. The respondent No.1 has filed his nomination paper along with affidavit in Form No.26 to contest the Hassan parliamentary constituency sponsored by Janata Dal Secular Party (hereinafter referred to as 'JDS') on 22.2.2019 at 12.35 p.m. Apart from the petitioner and respondent No.1, the respondent Nos.2 to 5 are the local/regional parties, who also contested, but not serious contestants in real terms. It is further alleged that the counting was held on 23.5.2019. The petitioner secured 5,35,282 votes, whereas respondent No.1 secured 6,76,606 votes. The votes secured by respondent No.1 were not the valid votes. The Returning Officer has declared the respondent No.1 as duly elected, to fill the seat for 16 Hassan parliamentary constituency on 23.5.2019. It is further contended that the Election Commissioner called the information in prescribed affidavit Form No.26 by exercising power under Article 324 of Constitution of India, to furnish the information relating to candidates, their assets including movable, immovable, bank

balance etc., of the candidates as well as the spouse and the dependents.

5. The petitioner further alleged that calling information in the affidavit Form No.26 by the ECI is to provide to the knowledge of every voter who has elementary right to know full particulars of the candidates who intends to represent him in the parliament and such right to get information is universally recognized and to know the candidate is a natural right flowing from the concept of democracy. It is an integral part of Article 19(1)(a) of the Constitution of India. Therefore, the candidate is bound to provide the necessary and all information at the time of filing nomination paper. The nomination paper is liable to be rejected, if it is incomplete information, tantamount to mis-representation, suppressing the material information in the affidavit, which would be treated as a defect of substantial character by Returning Officer. It is

the duty of Returning Officer to check whether the information required is fully furnished and non-furnishing of the required information, would amount to falsehood or suppression/non-disclosure which amounts to suppression of material information relating to the candidate and it also amounts to nullify the very foundation of voters exercise of choice and vitiating the purity of the election process.

6. The petitioner further contended that the respondent No.1 is guilty of non-disclosure of information pertaining to partnership firm M/s. Adhikarah Ventures LLP and M/s. Dhrone Workforce LLP owned by him as partner for 20% and 25%.

7. It is further contended that, as on the date of filing this affidavit on 22.3.2019, the respondent No.1 declared his assets and liabilities, bank balance, movable and immovable properties. Immediately, the

petitioner filed the objection before the Returning Officer against willful suppression of assets, movable and immovable properties including, bank balances, but the Returning Officer accepted the nomination paper of the respondent No.1, by rejecting the objection of the petitioner on the ground of 6.10 (iv) of Returning Officer's directory. Upon considering the objection filed against respondent No.1, the ECI, designated an officer to hold an enquiry, but the designated officer failed to take any decision against the respondent No.1. The very purpose of issuing guidelines issued by ECI to submit affidavit in form No. 26 would be defeated, if such affidavits are accepted. Therefore, accepting of the nomination filed by respondent No.1 is bad in law.

8. The petitioner further submitted that non furnishing of the required information would amount to falsehood, suppression/non-disclosure, hence the respondent No.1 is guilty of:-

- a) Non-disclosure of information regarding partnership of M/s. Adhikarah Ventures LLP and M/s. Dhrone Workforce LLP,
- b) The income tax returns to be filed for 5 last financial year but not filed any income tax returns but he has filed income tax returns only for the assessment year 2018-19, even though he is having huge amount of income and self acquired properties worth crores from 2008 till 2018,
- c) The respondent No.1 despite not owning any title but he has declared he is owner of the land in Sy.No.16/3, 17/2 and 13/2 of Bhavinkere village kasaba hobli Nelamangala, and in Sy.No.3/1 and 3/3 of Srirampura village Mysore Taluk,
- d) The respondent No.1 has wrongly shown the market value of the immovable properties situated at Bhavinkere village in respect of item No.1 to 8 properties No.E. The affidavit of the respondent No.1 was verified in column no.7(b) (2) non agricultural land in respect of Chennambika Convention Hall is a

partner which is a commercial building but he has invested the money in the land but he has mentioned as nil and he has misled the public at large,

- e) The respondent misled the public by declaring that he had huge amount of loan from his father Sri.H.D Revanna for Rs.1,26,36,000/- but the H.D. Revanna has declared before the Registrar of Lokayuktha where in his affidavit stated he has given loan to his son for Rs.47,36,000/-,
- f) The respondent No.1 filed Income Tax return on the very same day of filing affidavit on 26.2.2019 by showing his address at Padmanabhanagar, Bengaluru,
- g) The respondent No.1 filed returns for the assessment year as belated return under 139 (4) of Income Tax Act which applies to individuals having income to be returned under the head of profits and gains from the business but he has suppressed his business interest in the firms,

- h) The respondent No.1 shown the income from business of Rs.7,48,442/-and he has conceded the true fact of his source of income in the affidavit,
- i) The respondent No.1 mis-calculated the total income and he has avoided the tax to the authorities for the previous years and he is guilty of dues to the Government,
- j) The respondent No.1 declared before the Income tax authority by mentioning the business and share in the firm in including the Chennambika Convention Hall but he has shown the false affidavit,
- k) The petitioner learnt the income of Rs.7,48,842/- was under the head of business but he has not furnished the actual figures in respect of the business in Form No.26,
- l) The respondent No.1 filed income tax return of the assessment year 2018-19 without disclosing income for previous year including the interest earned from Chennambika Convention Hall therefore he is guilty of non

disclosing the income from the Chennambika Convention Hall,

- m) The respondent No.1 is guilty of not maintaining the books of accounts as per Section 44 AA (2),(i)(ii) of IT Act,
- n) The respondent No.1 shown bank balance as on 22.3.2019 at Karnataka Bank Minerva Circle Branch, Bengaluru in the affidavit as Rs.5,78,238/- but as per the bank balance it was Rs.49,09,583/-,
- o) The respondent No.1 received Rs.50 lakhs from Kuppareddy as Rajya Sabha Member through his bank account at Minerva circle branch but he has not disclosed.

9. It is further alleged by the petitioner that the information furnished by respondent No.1 were suppressed and not disclosed various information in the nomination paper. Therefore the nomination of the respondent No.1 was liable to be rejected and consequently, his election is liable to be declared as null

and void. It is further alleged that the nomination of respondent No.1 is only lip service and there is no evidence at all, therefore, his nomination is liable to be held invalid. It is further alleged that the details are furnished in respect of asset / business and possessed by each candidate separately, but the respondent No.1 has mislead by suppressing the investments in bonds, debentures and shares. There is corresponding duty on part of respondent No.1 to disclose truthful and correct information regarding the assets, both movable and immovable including bank balance, therefore, non disclosure of assets in his nomination, is held as invalid. It is further contended the Returning Officer failed to exercise his statutory duties but wrongly accepted the nomination of the respondent No.1. Therefore, prayed for allowing the petition as prayed for.

10. The respondent No.1 appeared through the counsel and filed written objections by denying all the

allegations made in the petition against the respondent No.1, as false except the respondent specifically admitted some of the averments and other averments are not admitted and the petitioner is put to strict proof of the same.

11. The respondent has contended that he secured 6,76,606 votes and declared as elected candidate on 23.5.2019 and all the votes are the valid votes and he has duly filled all the instructions printed in the Proforma Form No.26. The contention of the petitioner is that every voter has right to know the full particulars of the candidate who represent them in the parliamentary election be true but other contentions are false. The paragraph 9 of the petition is figment of imaginations and the Returning Officer not expected and permitted to conduct a rowing enquiry on the affidavit filed in Form No.26. The contention in paragraph 10 is denied as false. The averments in paragraph 11 regarding

partners in the firms-M/s. Adhikarah Ventures LLP, M/s. Drone Workforce LLP, is not correct. The respondent was no more partner, he was already resigned from the firm on 19.3.2019 and the firm has accepted his resignation by resolution which was forwarded to the Registrar of Companies, therefore the contention of the petitioner that the respondent No.1 was partner of the firms, is not correct. The averments in the petition in paragraph 12 is the matter of record. The contention in paragraph 13 regarding filing of his objection, before the Returning Officer may be true, but the other contentions are not true. The contentions in paragraphs 14 and 15 are not admitted. The Returning Officer is justified in rejecting the objection of the petitioner and accepted the nomination. The contention in paragraph 16 is not admitted. The respondent has not suppressed any material facts and has not left any blank spaces in the affidavit.

12. It is further objected by respondent No.1 that paragraphs 17A, 17B, 17C of the petition are denied. The respondent has furnished the information sought at Sl.No.4, part A of the Form No.26 that candidate should have filed IT returns for previous 5 financial years. The respondent correctly declared his IT returns and further contended that he has purchased the land in Sy.No.16/3, 17/2 and 13/2 of Bhavinkere village by sale deeds dated 15.9.2020 and in respect of Sy.No.3/1 of Srirampura village, it was typographical error that the land in Sy.No.3/2 but wrongly typed as Sy.No.3/1 and the land in Sy.No.3/3 is inherited through 'Will' executed by his grand mother Smt. Nagarathnamma on 04.12.2009. It is further contended that the land in Sy.Nos.13/1, 17/1 and 16/3 reflects the erstwhile owner of the land and they have sold those properties in favour of the respondent, but the encumbrance were reflecting in the name of the erstwhile owner. Further contended

that he has furnished approximate current market value of those properties and the guidance value fixed by the authorities for the purpose of stamp duty. It is further contended that the Chennambika Convention Hall belongs to a firm and he has mentioned the same in the affidavit Form No.26 and further denied that in the financial year 2017-18, he has availed loan from his father Sri. H.D. Revanna and he has mentioned in the nomination paper. The IT returns filed by him is not within the scope of the election petition, even otherwise, the respondent is earning income and interest from the firm, the same was declared in IT returns and his affidavit. He further contended that the allegations made in the paragraph 17 and sub-paragraphs are all false and contended that the respondent has furnished Bank balance available as on the date of filing the nomination by obtaining the account for the period from 31.12.2006 to 7.3.2019 and the receipt of Rs.50 lakhs

as loan from Kuppendra Reddy, which was transferred on 11.3.2019 and the same was not intimated to the respondent. Subsequent to filing of the nomination paper, the respondent came to know the amount received by him and further denied paragraph 18, 19, 20, 21, 22, 32 as false and further admitted that the interpretation given by the petitioner in respect of judgment of courts in paragraph-33 is partially correct and further denied the paragraphs 34 to 37 as false and contended that the respondent never suppressed any information in his affidavit and he has not violated any provisions of the Act. Therefore, he has contended the petition is devoid of merits and liable to be dismissed.

13. The respondent also further contended that the contention of the petitioner in accepting the nomination of the respondent has materially affected the result of the Returning candidate under Section 100(1)(d)(i) of R.P. Act is untenable and there is no

violation of provision of Sections 33A, 33B and Section 100(1)(d)(iv) of R.P. Act and the contention of the petitioner in paragraph 38 to 45 are untenable and not admitted. It is further contended that prayer (a) of the petition cannot be granted as the petitioner has not made out *prima facie* case, the prayer (b) also cannot be granted as the affidavit filed by the respondent does not suffer from any infirmities. The Election Petition is not required to be entertained by this court as the petition itself is not maintainable in the earlier paragraphs of the objections.

14. It is further contended that the Election petition suffers from non-compliance of Section 81(3) of R.P. Act which is as under:-

- i. The election petition served to the respondent is not signed by the petitioner as well as his Advocate as true copy.
- ii. The advocate of the petitioner has put his signature at page no.34 to

37, 40, 42, 49 to 64, 66 to 77, 79 to 81, 83 to 86, 88 to 97, 100, 105 to 107, 110, 113, 116, 118 to 120, 122 to 127, 131, 133 to 136, 138, 140, 141, 142, 144, 145, 147 to 151, 155 to 158, 160 to 169, 171 to 180, 182 to 192, 196 to 201 but not true copy.

- iii. The advocate for the petitioner has not signed on the documents page Nos.128 and 129,
- iv. The petitioner has alleged the respondent is guilty of corrupt practice but has not filed the affidavit in the format prescribed in Form No.25 which is mandatory under the Act and Rules. The documents produced by the petitioner in Annexure 'G' and 'H' are tampered one and contended that the respondent not suppressed any material facts in Form No.26 which does not suffers any infirmities and no false information filed by the respondent hence prayed for dismissing the petition as no case made out by the petitioner.

15. The respondent No.1 in EP.No.1/2019 also filed Recrimination Petition under Section 97 of R.P. Act alleging that the petitioner has sought for declaration before this court that the election of the respondent to

be declared as null and void. That this respondent has filed false affidavit and also sought the petitioner be declared as duly elected for having secured the 2nd highest vote and he has contended that assuming without admitting the same, the petitioner is not entitled for relief of declaration that he should be declared as elected, because the petitioner also indulged in corrupt practice. It is further contended that the petitioner has filed false affidavit in Form No.26, he also suppressed the material fact regarding declaration of his income and his wife's income and pending criminal cases against him. The petitioner also contested from Arakalagudu constituency of Assembly election on 12.5.2018 by declaring his income as Rs.11,85,18,249/- and his wife's income as Rs.10,49,88,112/- in part B of the affidavit, but in the Lok Sabha election, he has mentioned his income and wife's income as Rs.12,04,322/- and Rs.22,06,488/- respectively for the assessment year 2018-19. He further contended that a criminal case has been filed against him which was pending before the

Hassan Court for the offence punishable under Section 188 of IPC and an appeal was pending before the High Court in W.P.No.16510/2018 which was not declared by him and he has a filed false affidavit by showing two different annual income for the same financial year and same is contradictory to the Section 33A of the R.P. Act. He has further submitted that Section 100 of R.P. Act enumerates the ground for declaring the election to be void, with a specific ground that if by improper acceptance of any nomination, result of the election has been materially affected and as per clause (d)(iv) non compliance with provisions of Constitution or Act and Rules, the petitioner is guilty of furnishing wrong information and suppressing the material information. The jurisdictional police registered FIR against him, which is pending before the JMFC, Arakalagudu in Crime No.64/2019 and while canvassing for the petitioner with the knowledge and consent of the petitioner an Ex. MLA H.M. Vishwanath issued the statement regarding the name of the caste and religion and there is clear

violation under Section 123(3) of the R.P. Act. Another case has been registered in Crime No.65/2019, the election agent also filed before the District Election Office along with the newspaper cutting, the petitioner also influenced the voters in a meeting on 5.4.2019. A case has been registered in Crime No.62/2019, another case registered in Crime No.66/2019 for seizing Rs.2 lakhs in a car along with the badges and pamphlets of BJP. Another case was registered in Crime No.34/2019 for carrying the caps and T-shirts with symbol of BJP in a car. The petitioner has willfully violated the code of conduct and the petitioner also indulged in making a false allegation against the JDS leaders. The petitioner has misused the official machinery and indulged in corrupt practice as enumerated under Section 100 of the R.P. Act. Hence, the petitioner is not entitled for declaring himself as elected and hence, prayed for rejection of the prayer of the petition.

16. The petitioner in E.P.No.1/2019 filed objections to the Recrimination petition, contending that regarding the allegation of corrupt practice, the Recrimination petition itself is liable to be dismissed in *limine* for non compliance of Rule 94-A of Conduct of Election Rules as the recrimination petition does not contain the affidavit in Form No.25. As regards to the non disclosure of pendency of criminal cases, the allegations are unfounded, except one case in Crime No.171/2018 and the said case was stayed by the High Court in Writ petition and there is no other cases at the time of filing the nomination and other cases were registered subsequent to the filing of the nomination. Therefore, the said contention is not tenable. It is further contended that so far as discrepancies in declaration of income of the assessment year 2017-18, the petitioner has shown different income due to increase of the income to the extent of Rs.18,43,073/-.

It is further contended that the fairness in the conduct of the petitioner in promptly showing the higher income

deserves to be appreciated and likewise, the two affidavits in respect of income of his wife differs and both the figures are correct. The two forms filed by the petitioner in the Recrimination petition confirms the petitioner's explanation regarding the reason for changing in the figure. The amount has been declared before the income tax authorities. Therefore, the petitioner is entitled for relief to be declared as elected in the place of respondent No.1. Hence prayed for dismissing the Recrimination petition as not maintainable.

17. The respondent No.2 also filed statement of objection stating that he has contested the Hassan parliamentary election from Bahujan Samajwadi Party and he has lost the election. The respondent No.1 was declared as returned candidate, as per Rule 4A of which mandates furnishing information in Form No.26. The respondent No.1 has not disclosed the information pertaining to the partnership firm, namely M/s.

Adhikarah Ventures LLP and M/s. Dhrone Workforce LLP were the partner holding 20% and 25% respectively, and he withheld the information and given false declaration and misleading information. Therefore, the respondent No.1 is guilty of non disclosure, misleading and furnishing the false information to ECI which amounts to corrupt practice, hence the election of respondent No.1 as returned candidate should be declared as null and void. Hence, prayed for allowing the petition.

18. The respondent No.3 also filed the written statement stating that he is a voter in Honnashettihalli village Chennarayapatna Taluk, he was sponsored by Uttama Prajakiya Party and contested the election and lost. He also contended the respondent No.1 suppressed the material fact, given false declaration in respect of assets and liabilities including the bank balances.

Therefore, it is contended that respondent No.1 is guilty of dishonest, non-disclosure, misleading and furnishing the false information to the ECI, hence he also prayed for declaring the election of the respondent No.1 as null and void.

19. The respondent No.5 also filed written statement by adopting the statement filed by the respondent No.1 and contended that the Election petition is not maintainable and liable to be dismissed for non-compliance of mandatory provisions of Sections 81 and 83 of the R.P. Act. He also denied the contentions in the election petition and he has almost supported the respondent No.1 and prayed for dismissing the election petition.

20. Based upon the pleading, the following issues has been framed by this court on 27.5.2022:

ISSUES (IN E.P.No.1/2019)

- (1) Whether the petitioner proves that respondent No.1 was the partner of the firm M/s. Adhikarah Ventures LLP and M/s Drone Workface LLP but not disclosed in the affidavit Form No.26 filed along with nomination paper?
- (2) Whether the petitioner proves that respondent No.1 has falsely claimed that he is the owner of the lands mentioned in paragraph 17(c) of the petition and also shown wrong market value of the suit property and also furnished wrong and incomplete information in his affidavit Form No.26 filed along with the nomination paper?
- (3) Whether the petitioner proves that respondent No.1 has mislead the voters in respect of the firm Chennambika Convention Hall which respondent No.1 is a partner?
- (4) Whether the petitioner proves that it is mandatory for the candidate contesting in an election to the parliament to show his source of income?

- (5) Whether the petitioner proves that respondent No.1 concealed his investment in the firm Chennambika Convention Hall and it was obligatory on his part to disclose the same?
- (6) Whether the petitioner proves that respondent No.1 has concealed the actual balance of the bank account of Karnataka Bank, Minerva Circle branch, held by him and if so, it vitiates the election?
- (7) Whether the petitioner proves that the acceptance of the nomination papers of the respondent No.1 by the Returning Officer is improper?
- (8) Whether respondent No.1 proves that he was not aware of the remittance of Rs.50.00 lakh into his savings bank account in Karnataka Bank by one Kuppendra Reddy, Member of Parliament (Rajya Sabha)?

(9) Whether respondent No.1 proves that non disclosure or non filing of returns for five years as required under clause 4(1) in Form No.26 does not violate Section 33A of the R.P. Act read with Rule 4A of Conduct of Election Rules together with Form No.26 as appended to the Conduct of Election Rules, 1961?

(10) Whether respondent No.1 proves that the petitioner has also indulged in corrupt practice by transporting the election materials unauthorisedly without taking permission of the Returning Officer and thereby, many cases were registered by the police and pending before the various Courts in Hassan District?

(11) Whether the petitioner proves that respondent No.1 has suppressed the true income, assets and liabilities in Form No.26 which violates Section 33A of the R.P. Act and Rule 4A of Conduct of Election Rules and furnished false information which amounts to the

corrupt practice in terms of Section 123 of the R.P. Act, thereby election of respondent No.1 of Hassan (General Parliamentary Constituency) and result declared on 23.5.2019 is held to be void under Section 98 and Section 100(1)(d)(i) of R.P. Act?

(12) Consequently, whether the petitioner is entitled to be declared as elected in place of respondent No.1 to No.16 Hassan (General Parliamentary Constituency) as enumerated in Section 98(c) of the R.P. Act?

21. **Election Petition No.2/2019** is filed by a voter G. Devarajegowda under Section 81 of the R.P. Act submitting that his name finds place at Sl.No.301 in part No.001, in Booth No.240 at Kamasamudra village and he is an Ex-Karnataka Development Inspection Committee member of Hassan District and also Ex-General Secretary of KPCC. He is an advocate and social worker and working for cause of justice. Even in

the parliamentary election, he has actively participated in support of Congress Candidate sponsored by the Congress party. But after a few days, election was announced for Hassan parliamentary constituency. At that time the JD(S) and Indian National Congress have decided to field a common candidate, due to which, he has resigned from congress party and joined Bharatiya Janata Party (BJP) including the respondent No.2 - A.Manju who was being sponsored by BJP in the said election.

22. The respondents Nos.1 to 6 have filed nomination. Respondent No.1 was sponsored by JDS, Respondent No.2 was sponsored by BJP, respondent No.3 was sponsored by Bahujan Samaj Party, they are National and State political parties, whereas respondent No.4 was registered as political party and was representing a new party - Uttama Rajakiya party and respondent Nos.5 and 6 are independent parties. The

contest is only between respondent No.1 and respondent No.2 i.e., JDS and BJP. Respondent No.1 was supported by congress which had not fielded any candidate. Respondent No.1 secured 6,76,606 votes and Respondent No.2 secured 5,35,282 votes, the rest of them secured in all 54,002 votes. The respondents No.3 to 6 have lost their deposits. Respondent No.1 secured 6,76,606 votes should not have been received and counted and they are not valid votes, whereas the votes secured by respondent No.2 were the valid votes. The respondent No.1 has been duly elected and the petitioner being the voter has right to challenge the same, in as much as he wants a good representative in the parliament to represent his constituency. The petitioner is seeking for a prayer not only to declare the election of the respondent No.1 as void but also to declare the respondent No.2 having been elected under Section 101 of R.P. Act.

23. The petitioner herein calling in question the declaration of the result of the respondent No.1 under Section 100(1)(b), (d)(i), (d)(ii), (iii) and (iv) of R.P. Act. The petitioner has also challenged the declaration of respondent No.1 as void but also challenged the commission of various corrupt practices by respondent No.1 under Sections 123(A)(b), 123(B)(b), 123(2)(b), 123(3), 123(3A), 123(6), 123(7)(a), 123(7)(d)(h) and 123(8) of R.P. Act.

24. It is alleged by the petitioner that respondent No.1 has filed the nomination before the Returning Officer under Section 33 of the R.P. Act and the Returning Officer was bound to satisfy himself after verifying the electoral roles, but the Returning Officer ignored the requirement contemplated under Section 33(a) of the R.P. Act that the candidate who is contesting the election has to submit Form No.26 and

the Form No. 26(A) has to be sworn in by an affidavit in accordance with law. But after going through the affidavit of the respondent No.1, it was brought to the notice of officer that the Form No.26 filed by the respondent no.1 was not in accordance with the law. But the Returning Officer accepted the same, inspite of objections without considering the questions raised by respondent No.2. It is also contended that Form No.26 suffers from non disclosure of material requirements regarding assets, liabilities, bank balance, which is substantial in nature. Respondent No.1 also invested in two partnership firms, which were not declared by him.

25. The petitioner further stated that in Form No.26, the liabilities and the loans required to be mentioned, whereas the respondent has taken loan from 16 persons including his father, mother and relatives but he has not properly declared. He has declared that he

has borrowed loan from his father for Rs.1,26,36,000/- as per his father's declaration before the Lokayuktha, but the respondent No.1 declared only Rs.74,00,000/-. There is difference of Rs.52,36,000/-. Likewise, the loan borrowed from his mother was Rs.43,75,000/- but payment is only Rs.30,00,000/-. There is a difference of Rs.13,75,000/- and there is no declaration before the Income Tax Department.

26. The petitioner further contended that the balance in the account at Karnataka Bank, Minerva Circle branch was Rs.49,09,583/- but, he has declared only Rs.5,78,238/- and there is difference of Rs.43,31,344/-. Therefore, the declaration made by respondent No.1 is false. It is further contended at column No.11 of Part B of affidavit Form No.26, that he has declared a sum of Rs.4,89,15,029/- and that it has been paid through RTGS DD for purchase of agricultural

land, by borrowing loan from his father, but his father declared before the Lokayuktha that he has paid loan only for Rs.47,36,000/-. Therefore, there is difference of Rs.79 lakhs and hence, the said declaration is also false. It is further contended that the respondent No.1 declared some of the landed property at Bhavinkere, Nelamangala Taluk are belonging to him but some of the properties were not standing in his name, therefore, there are difference in the properties as per the sale deed. Therefore, the declaration was false and some of the properties belonging to Government and declaring the said properties as his property, amounts to land grabbing and punishable under the penal offences.

27. The petitioner further stated there were sale deeds in respect of two survey Nos. 16/2 and 17/1 and in respect of survey Nos.16/3, 17/2 and 13/2 of Bhavinkere village, said to be belonging to him, but the

record speaks some thing else, his name was not shown in those documents. Therefore, the said declaration is false. Further it is contended that so far as Sy.No.17/2 belonging to one Siddananjappa, a litigation was pending in O.S.No.482/2015 and O.S.No.326/2011 which are still pending. Therefore, his name is not reflecting in the revenue records, therefore his declaration is false. Further contended, in respect of Sy.No.3/1 of Srirampura village, the property belongs to one Maramma, wife of Nanjaiah, but the respondent declared as owner and similarly in respect of Sy.No.3/3 of Srirampura village he has declared, that it belongs to him, but it shows in the name of Nagarathnamma. As per Form No.26, he has stated that he is the owner of 5 survey properties but it does not belong to him. Therefore, it is a false declaration which attracts corrupt practice under Section 123 (2) of R.P. Act.

28. The petitioner further contended that while filing the nomination, he filed Form No.26, the same is not in accordance with Section 33A of R.P. Act and Rule 4A of Conduct of Election Rules and if it is not in conformity within the prescribed form, the Returning Officer is bound to reject the nomination paper. But the Returning Officer has failed to do so. Therefore, considering the information, non-filing the correct information amounts to corrupt practice under Section 123(2) of R.P. Act.

29. The petitioner filed a complaint to the Election Commission when the nomination of respondent was accepted, the said complaint was forwarded to the ECI and the result is awaited. Further submits, in part A and B, the PAN number of income tax required to be furnished but he has not furnished. There is a difference in the amount disclosed by him, the same amounts to

non-disclosure, suppression and concealment of different items which are as under:-

- i. The respondent No.1 lent loan to his brother Suraj in a sum of Rs.37,20,000/- but that is not correct, but has lent loan of Rs.76,00,000/- through Karnataka Bank,
- ii. He has declared he is the owner of land in Sy.No.16/3 of Bhavinkere village and owner of Sy.No.17/2 but his name is not find place in the revenue records,
- iii. The Assistant Commissioner, Doddaballapura have passed order on 29.4.2011 in LRF SR(L) 19/2009-10 regarding Sy.No.16/3 which belongs to Government, but the respondent declared the said land belongs to him and he has declared the value of the property as Rs.5,77,50,000/- crores but the actual value is 11.55 crores hence his declaration is false.

iv. In respect of Chenambika Convention Hall he has shown Rs.14,66,666/- in the said site there was a construction of hall and as per the building license and photograph the investment is not less than Rs.5 crore and his earning is Rs.8 lakhs as rental income which was not disclosed. It is further alleged, the High Court has passed an order on 16.10.2012 in W.P.No.38127/2012 (LB RES -PIL) to the DC for demolition of the convention hall. The said land said to be gifted by his father Revanna to the respondent No.1 and he himself and his brother had constructed and the cost would be more than Rs.5 crore but it is not declared. Therefore, his declaration is false,

v. As per the Income Tax Act the amount derived which exceeds the slab, then he has declared in his returns but he has not declared in the income tax returns and he has filed IT

returns only in Assessment year 2918-19 but not filed any IT returns from 2014 to 2017. He bound to show the income for first five years but which is not declared and as per the information gathered by the petitioner an amount of Rs.1,88,68,368/- has come to his SB account at Minerva Circle Branch as per the discounting of 41 bills from Government department which has not been declared. The respondent No.2 also filed complaint to the IT department to hold an enquiry regarding bills received and encashed by the respondent No.1,

- vi. The respondent No.1 is guilty of non disclosure of investments in M/s. Adhikarah Ventures LLP and M/s. Dhrone Workforce LLP to the extent of 20% and 25% respectively and as per the data in public domain uphold on 24.6.2019 that he is retired from the said companies. Therefore, as on the date of filing nomination he is partner

of the said two companies which were not disclosed,

vii. As per the affidavit he has declared the balance in his account at Minerva circle branch Karnataka bank was Rs.5,78,238/- but as on the day of filing nomination the amount was Rs.49,09,583/- and there is difference of Rs.43,31,345/- hence his declaration is false and further contended he has lent loan of Rs.37,00,000/- to his brother but he has actually lent Rs.76,00,000/- therefore his statement is incorrect and as per the Income Tax Act, he has transferred the said amount through online, therefore it is an offence under Section 269 SS and 269(T) of IT Act.

30. The petitioner further contended that there is gross violation narrated above. It is clear in Form No.26 that he has declared all false information, suppression of material facts which amounts to defect of substantial

character, hence nomination should have been rejected and the non disclosure as per the Section 33A of R.P. Act and Rule 4A of conduct of Election Rules which declaration were contrary to the said provisions and further contended that under Section 100(1)(b) read with Section 100(1)(d)(2) of R.P. Act, he has suppressed all the material facts which amounts to violation under R.P. Act. The petitioner further contended that under Human and Civil Right contemplated under International Covenants and Civil and Political Rights, 1966 read with Article 19 of Constitution of India, disclosure of information in the affidavit and guidelines issued by the Election Commission in 2006 amounts to violation of Sections 33 to 36 and 100(1)(d)(i)(iv) of R.P. Act and election is liable to be set aside. It is further submitted that, the material information regard to assets not only lacks in correctness and particulars, but suffers from non disclosure of interest. The Returning Officer at the time

of scrutiny is not bound to go into details, but in the instant case, he ought to have gone into the details as there were glaring and patent and supported by public documents. Further it is contended that the facts narrated regarding non compliance of law under Section 33 of R.P. Act and Rule 4A of the Conduct of Election Rules, 1961 amounts to corrupt practice of undue influence within the meaning of Section 123(2) of R.P. Act. Hence, the election of respondent No.1 is liable to be set aside.

31. The petitioner further contended that the respondent committed corrupt practice of bribery as contemplated under Section 123 (1) A and B of R.P. Act which reads as under:-

(a) On 16.04.2019 at 12.45 am near Chennambika theatre Holenarasipura which comes under Hassan parliamentary constituency one suraj the brother of respondent No.1 who

acted as agent and has committed corrupt practice that which he was carrying Rs.1,20,00,000/- in Innova Car bearing KA 01 MH 4477 for distributing money to the electorate nearby the said car belongs to the State Government which was used as escort car for his father who is PW sitting minister and Hassan District In charge Minister. The squad seized the vehicle along with cash and registered case in Crime No.15/2019 of Holenarasipura town police which amounts to corrupt practice under Section 123 (A) of R.P. Act.

(b) There was constant propaganda and work carried by the father of the respondent No.1 HD Revanna who is a sitting PWD Minister and incharge District Minister and upon his direction the Cauvery Neeravari Nigama had used fund which was sanctioned by the Government for 576 crores which has been diverted Rs.273 crore

towards construction of temple, Samudaya bhavana (community hall), concrete road and drainage, these amounts belongs to Cauvery Neervari Nigama which was diverted at the instance of father of the respondent No.1 and the Managing Director, Executive Engineer were all used by his father as Assistants which were Government Officials, thereby it was a corrupt practice under Section 123(1) and 123(7) of the R.P. Act.

32. The respondent No.1 also committed corrupt practice under Section 123(7) of R.P. Act, by taking assistance of the Government officials who are the police officers i.e., Ravi and Chandraiah, as their escort car was used for carrying the money for distribution.

33. It is further alleged that on 18.4.2019, in booth No.244 of Holensarasipura constituency, the respondent No.1 had taken assistance of officer of the

polling booth namely, Yogeesh who is the Gazetted Officer, one Ramachandra Rao who is Head Master of Maruthi High School and Dinesh who is the 2nd booth officer and the Assistance Professor of Government Primary school and these persons were posted in Paduvalahippe Village in booth no.244 and between 10.43 a.m. and 1.00 p.m., in the absence of complainant MN Raju who happens to be polling agent of respondent No.2 - Manju and on behalf of the said Raju one Mayanna worked as polling officer from 10.45 a.m. to 1.00 p.m. The act of the officers exhibited the manner in which the rigging took place by the polling agents of the respondent No.1 who allowed to exercise votes though they were not eligible to vote in the polling booth. The said acts occurred in the presence of the above said election officers, they were kept silent at the instance of the agent of the respondent No.1. It is further alleged that the father of the respondent No.1,

HD Revanna who tried to prevent from complaining, at the time of complaint being lodged which amounts to corrupt practice under Section 123(3) of the said Act of booth capturing. Taking assistance of the police officers, who are the government officials amounts to corrupt practice within the Section of 123(7)(h) of the R.P. Act.

34. The respondent also taken the assistance of Government officials working in Cauvery Neervari Nigama which is a statutory body controlled by Government of Karnataka i.e., Managing Director Prasanna, Executive Engineer - Dam Division, Executive Engineer -Channarayapatna Assembly Division, Executive Engineer, Holenarasipura. The assistance were taken by respondent No.1 through his father which amounts to corrupt practice including diverting the fund of Rs.273 crores towards construction of temples, road, drainage etc., which amounts to corrupt practice under Section 123(7) of the R.P. Act.

35. It is further alleged that the respondent No.1 committed corrupt practice under Sections 123(3) and 3(A) of the R.P. Act that the respondent No.1 addressed the electorate belonging to the Lingayath community and a case was registered in Crime No.41/2019 by the flying squad team No.3 of Halli Mysore police station which amounts to the corrupt practice.

36. It is further contended the respondent committed corrupt practice under Section 123(6) of the R.P. Act that the election expenditure was fixed for Rs.70 lakhs, but he has spent beyond the limit which amounts to corrupt practice that the respondent declared expenditure as Rs.63,14,197/-, but the expenditure incurred by him for star campaigner i.e, sitting Chief Minister once came along with his wife Anitha Kumaraswamy, Nikhil Kumaraswamy - cinema actor which amounts to Rs.4,80,000/-. They also visited

to Kadur along with former Prime Minister Sri.H.D.Devegowda along with former Chief Minister Siddaramaiah which amounts to Rs.14.40 lakhs which was not declared by him and in respect of expenditure incurred towards the advertisement in print and electronic media he has spent Rs.26,64,429.50/- but he has stated only Rs.1,46,601/- which amounts to corrupt practice under Section 123(6) of the R.P. Act as he has used 44 vehicles for 16 days, but he has declared very meager amount. It is further contended that he has given advertisement by Viajay Karnataka, Prajavani, Kannada Prabha, the expenditure would not be less than Rs.4.00 lakhs and the local newspaper and advertisement is given which amounts to Rs.1.00 lakh were not declared. He has spent the amount towards the pamphlets which were transported through KSRTC bus which were seized and two FIRs registered in Crime Nos.24/2019 and 26/2019 which amounts to

more than Rs.1,40,000/-, but he has not included in the expenditure. He has spent huge amount towards the vehicle expenditures more than Rs.10.00 lakhs, but he has not declared.

37. The respondent spent more than Rs.13,41,000/- towards the expenditure of polling agent, in all 20 to 35 polling booths which were not declared. The respondent is not having any gainful employment except his influence in political background of his grand father, father, uncle, whereas the respondent No.2 - A.Manju is a qualified law graduate and Ex-Minister and Ex-member of various organization was contested and succeeded against JDS. The BJP had expected the Hassan constituency to be the winning constituency. The respondent No.1 while filing his nomination, he has acquired properties from 2009-10 when he was hardly 18 years and a student and having

no independent income, but he has acquired huge properties. The declaration of the respondent No.1 as returning candidate is void. The respondent No.2 having been duly elected under Section 101 of the R.P. Act and the respondent No.1 by giving false affidavit suffers from disqualification. Therefore, the votes secured by him has to be declared as invalid votes and thrown away votes and to declare the respondent No.2 as elected and secured 5,35,232 valid votes and hence the result and declaration of election dated 23.5.2019 so far as the respondent No.1 is concerned, who is the returning candidate has been materially affected due to improper reception of votes, which were not valid, should have been declared as thrown away votes and to declare the votes secured by respondent No.2 as valid votes and the respondent to declare as newly elected.

38. It is further contended the respondent No.1 committed offence under Section 125A of R.P. Act and

an action has to be taken and hence, prayed for allowing the petition.

39. The respondent No.1/Prajwal Revanna appeared through the counsel and filed statement of objections by denying all the allegations made against him as false and contentions in Paragraph Nos. III, IV, V, VII and VIII and not admitted and paragraph No.9 is partly admitted in respect of securing the votes by the respondent and contended that they are valid votes and further denied paragraph Nos. XI, XII, XIII as false and contended that he has not committed any corrupt practice and he has complied all the provision and rules and further denied the contentions that the Returning Officer ignored the requirement under Section 33 of R.P. Act as false. He has furnished all the details including the investments, bank balances, and he was not partner in the firms as he was already resigned from the firm. He further denied the averments in respect of loan

borrowed from his parents as false and he has filed IT returns to the Income Tax Authorities. He further contended that he has obtained the bank statement till end of February 2019 and he has requested Kuppendra Reddy for loan of Rs.50 lakhs but it was transferred on 11.03.2019 and the same was not intimated to this respondent, therefore, there is no intention to suppress any bank balance. He further denied the allegations in paragraph XIV(d) as false in respect of amount paid through DD for purchasing the agricultural properties. He further denies the contentions in paragraph XIV(e), (f), (g)(h)(i)(j) as false and contended that he has purchased agricultural lands under the sale deed but the encumbrance certificate reveals previous owner's name. However, it is contended that there is typing error in Sy.No.3/1 but it should be Sy.No.3/2 of land belongs to his grand mother which was received by him through 'Will' executed by his grandmother Nagarathnamma and

further denied allegations made against respondent No.1 in the paragraph Nos.XIV(l),(m),(n),(o) and other allegations in sub paragraph O(i) to sub paragraph O(26) and denied as false and the petitioner is put to the same. He has further contended that his father never diverted the funds from the Cauvery Neeravari Nigama and involvement of his brother Suraj in the seizure of cash in a car. He further contended that there is no rigging in the booth and the petitioner not filed any complaint to the Deputy Commissioner regarding electoral irregularities. The Cauvery Neeravari Nigama does not come under PWD minister and therefore, question of diverting the fund by his father does not arise. The respondent has not sought by invoking the name of any community, in particular, the community belongs to Lingayath and therefore it does not fall under the corrupt practice under Section 123 of the R.P. Act. The respondent already filed details in the election

expenses which was already accepted, therefore, Section 123(6) of the R.P. Act not attracted. He further denies the ceasing of the pamphlets, the case is under investigation and he has not incurred any amount for printing the pamphlets. The details of election expenses sent to appropriate authority were accepted.

40. The respondent further denied the allegations regarding appointing counting/ polling agents and he has not spent any amount towards them. The respondent though belongs to the political family, but he is not having disqualification to contest the election. the remaining allegation in paragraph Nos. XXIX, XXX, XXXI to XXXVII are all denied as false and petitioner is put to strict proof of the same.

41. The respondent further contended that the petition suffers from non compliance of Section 81(3) of R.P. Act which is detailed as under:

i) Date of Election Petition in presentation form, index, mentioned as 6.7.2019 whereas date mentioned in synopsis, verification of petition, verifying affidavit and affidavit in support of allegation of corrupt practices is mentioned as 5.7.2019,

ii) The presentation form, index, page Nos.2 and 3, 58 to 68 are not signed as true copies by the petitioner whereas the advocate of the petitioner as also not signed presentation form, index, page No.3 and memorandum of election petition as true copy and page No.39. The advocate of petitioner has not signed,

iii) at page No.7 of the memorandum of election petition, there is a correction in paragraph No.9 but it is not attested by petitioner and his advocate,

iv) at page No.24 of the EP there is a correction which has been attested by the advocate for petitioner by not attested by petitioner,

v) at page No. 55 of the learned counsel for the petitioner there is a correction in paragraph No.XXXV but it is not attested by the petitioner and his advocate,

vi) at page Nos.71, 76, 78, 79, 80, 83, 96, 122, 133, 143, 154, 159, 165, 193, 201, 221, 233, 275 in the space against the date in the verification, the date of the document is not mentioned but mentioned as Nil.

vii) at page No.127, in the verification the date is mentioned as Nil and space for annexure name is left blank, at page No.176, the space for the date and the name of the petitioner is left blank. At page No.209, in the space for date is mentioned as Nil and annexure is mentioned as N3 whereas in the document is annexure N2, at page 245 in the space for date it is mentioned as Nil, and annexure as N4, whereas documents name is N5, at page 257 in the space for date it is mentioned as Nil and annexure is mentioned as N5 where as the document

is not given any annexure name at page 250 and the same is not mentioned even in the index through it is a different document than that of annexure N5, at page Nos.262, 265, 270, 278, 287 in the space for date is left blank at page 309, the space for annexure is mentioned as 'P' where as in the document is marked as Annexure-P1 and the document produced 293 is not given any annexure name and the document is not verified by the petitioner at page Nos. 311 to 317 the document is not signed as true copy and in the verification at 317 the space for date is left blank where as document produced Annexure-Q at 310 is claimed to be bank statement but it does not bear the seal and signature of the bank authorities.

42. The election petition suffers from non compliance of Sections 81(3) and 83 of the Act which deserved to be rejected at the threshold in view of the provisions contained in Rule 94(A) of the Conduct of Election Rules, 1961. Even otherwise, the petition is

devoid of merits and does not stand any scrutiny of facts of law which deserved to be rejected and petitioner is not entitled for any prayers sought by him in the election petition since he has not established any electoral offences and hence prayed for dismissing election petition.

43. The respondent No.2 / A. Manju (who is the petitioner in E.P.No.1/2019) has not filed any statement of objection in this petition.

44. The respondent No.3 appeared through the counsel and filed written statement and submitted that he also contested in the election and lost and contended that as per Rule 4(A) of Conduct of Election Rules, it mandates furnishing information in Form No.26 including the assets and liabilities and balances, but the respondent No.1 has not disclosed the information pertaining to the partnership firm in M/s. Adhikarah Ventures LLP and M/s. Dhrone Work Force LLP owned

by him as a partner holding 20% and 25% respectively and respondent no.1 not only withholding the details of information but also sworn to a false affidavit in respect of the landed properties and is guilty of non-disclosure, misleading and furnishing false information to the ECI which amounts to corrupt practice, hence election of respondent No.1 should be declared as null and void and hence, prayed for allowing the petition.

45. The respondent no.4 who also appeared through counsel filed statement of objection stating that he also contested the election and he has lost and also stated the respondent no.1 not disclosed the information pertaining to the investment in the firm as well as lands. He has sworn to false affidavits, therefore, the election of the respondent no.1 is to be declared as null and void and hence, prayed for declaration of election of respondent no.1 as null and void.

46. On the above said pleadings, the following issues have been framed:

ISSUES (In E.P.No.2/2019)

- (1) Whether the petitioner proves that the acceptance of the nomination of respondent No.1 by the Returning Officer is illegal?
- (2) Whether the petitioner proves that the nomination of respondent No.1 and Form No.26 enclosed along with the nomination is in contravention of Section 33A of R.P. Act and Rule 4A of Conduct of Election Rules?
- (3) Whether the petitioner proves that as on the date of the election, respondent No.1 was not eligible and qualified to be chosen to fill the seat of No.16 Hassan Parliamentary Constituency?
- (4) Whether the petitioner proves that the result of the election so far as respondent No.1 is concerned has been materially affected by

improper acceptance of his nomination?

- (5) Whether the petitioner proves that non-disclosure of material information in Form No.26 as contemplated under Section 33A of R.P. Act and he has committed corrupt practice of bribery as contemplated under Sections 123(1)(A), 123(1)(B), 123(7), 123(7)(b), 123(vii)(d), 123(7)(h) and Section 123(8), 123(3), 3A and 123(6) of R.P. Act?
- (6) Whether the petitioner proves that non disclosure of material required in Form No.26 as contemplated in the guidelines issued by Election Commission in the year 2006 amounts to violation of Sections 33 to 36 and 100(1)(d)(i)(iv) of R.P. Act?
- (7) Whether the petitioner proves that the declaration of respondent No.1 as returned candidate is void and

whether he further proves that respondent No.2 has to be duly declared as having been duly elected under Section 101 of R.P. Act?

- (8) Whether the petitioner proves that the votes counted in favour of respondent No.1 should be treated as wasted votes (thrown away votes) and reception of the said votes in favour of respondent No.1 and counting the same is his favour is void?
- (9) Whether the petitioner proves that respondent No.2 has secured 5,32,282 number of valid votes and respondent No.2 has to be declared as having been duly elected?
- (10) Whether the petitioner proves that the election expenses incurred by respondent No.1 was beyond the limit fixed as stated in paragraph

XXI and XXVII of the election petition?

- (11) Whether the petitioner proves that the discrepancies in the information given by respondent No.1 is a corrupt practice and the same has affected free exercise of votes by the voters?
- (12) Whether respondent No.1 proves that the Election Petition is liable to be dismissed for non compliance of Section 81(3) of the R.P. Act?

47. In support of the case of the petitioner in E.P.1/2019, he himself examined as PW1 and also examined 3 more witnesses as per PW2 to PW4 and got marked 14 documents as per Exs.P1 to P14.

48. The petitioner in EP.No.2/2019, he himself examined as P.W.1 and he also got examined some of the official witnesses. P.Ws.5 to 18 were examined by way of common evidence in both EP.Nos.1 and 2/2019.

P.Ws.16 to 23 were examined by the petitioner in EP.No.2/2019 and got marked Exs.P1 to P66 and closed the evidence of both petitioners. The respondent No.1/Prajwal Revanna who is the common respondent in both the cases, who himself examined as RW1 and got examined two more witnesses as RW2 and RW3 and got marked Exs.R1 to R43(A). The other respondents were not seriously contested the case and they have not examined any witnesses.

49. After closing both the evidence, heard learned Senior Counsel appearing for both petitioners as well as Senior Counsel appearing for respondent No.1. Learned Senior Counsel for the parties relied upon the various judgments passed by the Hon'ble Supreme Court in support of their contentions that will be discussed in the later part of the judgment.

DISCUSSION ON ISSUES IN EP.NO.1/2019

50. ISSUE No.1

Whether the petitioner proves that the respondent No.1 was the partner of the firm M/s. Adhikarah Ventures LLP and M/s. Dhrone Workforce LLP but not disclosed in the affidavit Form No.26 filed along with nomination paper?

In order to prove the said issue, the petitioner in EP.NO.1/2019 - A.Manju, examined as PW1, and he has deposed that after filing of the nomination paper by the petitioner himself and also respondent No.1, he has verified the website in respect of the affidavit of the respondent No.1 and he has found a false affidavit filed by the respondent No.1 and contended that the respondent No.1 was the partner of the firms M/s. Adhikarah Ventures LLP and M/s. Dhrone Workforce LLP but he has not disclosed the same in Form No.26 and also deposed that he has raised various objections on the Form No.26 filed by the respondent No.1 and he has brought to the notice of the Returning Officer by

producing the master data of those companies where the respondent no.1 was partner. In support of his contention, he has produced and marked the EX.P1 the Form No.26 the affidavit filed by the respondent No.1 and he also produced and got marked Ex.P2 - the objection raised by him and contended that inspite of the raising of objection, Returning Officer accepted the nomination paper. In order to prove the respondent No.1 was the partner of the firms, he has got marked Exs.P10 and P11. He further got marked the Exs. P10 (A) to (E) and, 10(B) in respect of M/s. Adhikarah Ventures LLP and Ex.P11 (A) to (E) in respect of the M/s. Drone Workforce LLP. In the cross examination, the learned Senior Counsel for the respondent has posed the question, that the petitioner has deposed he is not aware that the respondent No.1 has resigned from the post of partner in both the firms on 19.3.2019 and the same was accepted by the firm and the petitioner admitted that the resignation letter issued by the respondent were marked by him as per Ex.P10(E) where

in the firm has accepted the resignation from the firm as per Ex.P10(D) and the Form No.4 sent to the Registrar of Companies, which is marked as Ex.P10(C). Likewise, the PW1 also admits the respondent has resigned the partner of the firm M/s. Dhrone Workforce LLP as per P11(E), Ex.P11(D) is the acceptance of the resignation by the firm and the Form No.4 sent to the Registrar of Companies is marked as Ex.P11(C). The learned Senior Counsel for the respondent has argued that as on the date of filing the nomination paper by the respondent No.1 on 22.3.2019, he is not the partner of both the firms as his resignation was already accepted by the firm and sent the information to the Registrar of Companies and subsequently the Registrar of Companies has web hosted the same. Therefore, it is contended by the learned Senior Counsel for respondent No.1 that he has not suppressed any information and he was not at all part of the firm, therefore, he has not suppressed any material fact in the affidavit.

51. Sri. Srivatsava, learned Senior Counsel appearing for petitioner contended that the respondent No.1 resigned on 19.3.2019 which was said to be accepted on the same day and intimated to the Registrar of Companies, but contended that as per Section 24 of the Limited Liability Partnership Act, a notice in writing shall have to be issued not less than 30 days prior to the resignation. Therefore, it is contended that there is no such notice of resignation issued by respondent No.1 prior to 30 days of his resignation and acceptance and therefore he is continuing to be partner in both the firm. It is further contended that as per Sub-section 5(a) of the Limited Liability Partnership Act, a partner is seized to be a partner unless otherwise provided in the limited liability partnership agreement that the former partner or a person entitled to his share, an amount equal to the capital contribution of the former partner actually made to the liability partnership and contended that there is no such settlement took place between the firm and the respondent No.1.

Therefore, he is continued to be a partner in both the firms as on the date of filing the nomination and it was not mentioned in Form No.26, the affidavit filed by the respondent. However, the respondent No.1 himself examined as RW1 and deposed that he has resigned as the partner of both the firms as per resignation letters Exs.P10(E) and P11(E), which were marked by the petitioner and the firm has accepted the resignation and Form Nos.3 and 4 were submitted to the Registrar of Companies. Therefore, it is contended as on the date of filing nomination he is not a partner in both the firm, therefore, it need not be mentioned in the nomination paper and in the cross examination by the learned counsel for petitioner in EP.No.1/2019, the RW1 deposed that on 19.3.2019, he has resigned from both the firms but he does not remember as to when he received the certificate of approval of registration from the Ministry of Corporate Affairs and he also deposed that he is not aware as to whether the approval certificate from the Ministry of Corporate Affairs has

been received or not at the time of filing the nomination paper on 22.3.2019, but denied that until the certificate issued by the Ministry of Corporate Affairs he will continued to be partner of both the firm as on the date of filing the nomination. The respondent counsel relied upon judgment of the Co-ordinate Bench of this court reported in **2003 SCC Online KAR 651** in the case of

M/S. MOTHER CARE (INDIA LTD.) IN LIQUIDATION REPRESENTED BY OFFICIAL LIQUIDATOR BANGALORE Vs. PROF. RAMASWAMY

P. IYER, wherein in a similar circumstances, a Director resigned from the company and the resignation was immediate effect and resigning would be seized to be a Director without having to wait for its acceptance by the Board of Directors. Learned Senior Counsel for respondent also contended that as per Section 24 of Limited Liability Partnership Act (hereinafter referred to as 'L.L.P. Act') when a persons seized to be a partner of the limited liability partnership in accordance with agreement with the other partner or in the absence of

agreement with other partners as to cessation of being a partner by giving a notice in writing of not less than 30 days to other partners of his intention to resign as a partner at Ex.P10(C) and as per Ex.P.10(D), the petitioner himself produced the resolution extract of it passed by the firm on 19.3.2019 by accepting the resignation of the respondent No.1 and web hosted subsequent to the filing of the nomination. In view of the judgment of the Co-ordinate Bench of this Court in ***Mother care India's*** case (supra) as on the date of resignation of respondent No.1 on 19.3.2019, the respondent No.1 ceases to be a partner of the firm, therefore, the contention of the petitioner that he was continued to be partner of M/s. Adhikarah Ventures LLP as on 22.3.2019, is not acceptable. Likewise, as per Ex.P.11 A to F, the respondent No.1 resigned from M/s. Dhrone Workforce LLP on 19.3.2019 and therefore, once the agreement was entered into between the parties by mutual consent and resignation was accepted as on the date of filing nomination, the respondent No.1 is no

more partner of both the firm. Therefore, it need not be mentioned in the nomination form in Ex.P1. Therefore, I hold that the petitioner failed to prove the issue No.1 that respondent No.1 though partner of both the firm, but not mentioned in the Form No.26, hence answered the **Issue No.1** in the **NEGATIVE**.

52. ISSUE No.2

Whether the petitioner proves that respondent No.1 has falsely claimed that he is the owner of the lands mentioned in paragraph 17(c) of the petition and also shown wrong market value of the suit property and also furnished wrong and incomplete information in his affidavit Form No.26 filed along with the nomination paper?

In order to prove this issue that the respondent No.1 is having landed properties in various places, he has not mentioned the Market value, purchase value and

guidance value of the properties, but he has mentioned wrong values of the properties. In support of his contention, the petitioner got marked Exs.P8 and P8 (a) to (h) to show that the respondent No.1 is having property at Nelamangala as per Ex.R8 the RTC, he owns property at Bhavinkere village as per RTC's 8(a) to 8(a)(d) and encumbrance certificate are marked at Ex.P8(e) to P8(h). The petitioner has contended the Sub-Registrar issued the market guidance value of the properties fixed by the Sub-Registrar as per Ex.P8(j) to (h). The learned counsel for the respondent in the cross examination of PW1 suggested that Ex.P8 (e) to (h) not depict the correct picture of the value of the properties purchased by the respondent No.1 and the same was denied by him. P.W.1 further denied in the cross examination that respondent declared the 3 values like guidance value, market value and purchase value of the properties and further admits in the cross examination

that he has not verified those sale deeds of respondent No.1 in respect of landed properties at Bhavinkere village. On the other hand, the respondent No.1 in his evidence has deposed and marked the Ex.R5 - the sale deed copy in respect of Sy.No.13/2 of Bhavinkere Village, Ex.R6 another copy of the sale deed in respect of land in Sy.No.16/3, Ex.R7 in respect of copy of the sale deed in Sy.No.17/2 and contended that he has mentioned the value of the properties in the nomination affidavit. In the further examination-in-chief, respondent No.1 has stated that he has produced the Exs.R21, 22, 23 and 24 in respect of the lands in Bhavinkere village and further contended he had purchased the properties prior to the election and some of the properties in Sy.No.17/1 got exchanged with adjacent land owner and obtained land in Sy.No.16/4. In the cross examination, respondent No.1 has stated that he has declared the approximate market value of the property owned by him

and he further admits that he has declared the value of the properties which was less than the guidance value fixed by the government but he further submits by volunteer to submit that guidance value is issued by the government only for stamp duty purpose but he has purchased the properties at distressed value.

53. The respondent No.1 denied the value of the properties mentioned in Exs.P8(j) to (h) - the sale deeds produced by the respondent. On perusal of Ex.P1 - the nomination and the affidavit, the respondent has mentioned approximate current market value of the landed properties. Learned counsel for respondent No.1 has contended that the petitioner has not produced any material to show the value declared by the respondent was wrong, and the sale deeds and valuer's report were not produced and it is contended that as per the information given by one Kiran Real Estate Agent, the

market value of the properties were mentioned by the respondent in his affidavit. Therefore, it is submitted that the contention of the petitioner that value of the property is not mentioned, is not tenable.

54. However, the petitioner examined PW2 - R.Girish, Deputy Commissioner. He has deposed that during his tenure as Deputy Commissioner of Hassan, he received a letter from the Election Commissioner of India to assess the value of the immovable property of respondent No.1 at the time of purchase of the property and also at the time of nomination filed by the respondent No.1 and he got the valuation from the Sub-Registrar as well as bank details from the banker, then he gave report as per Ex.P5 and he has identified the details of the value of the properties mentioned in his report at the time of purchase as well as nomination as per Exs.P5 (c) and P5 (d).

55. The counsel for the petitioner in E.P.No.2/2019 also got marked Ex.P9 - the report and the Ex.P5 and P9 are one and the same. In the cross examination of P.W.2, the counsel for the respondent No.1 suggested, what was the value of the property whether he is having any personal knowledge, for that, P.W.2 has stated that he does not have any personal knowledge about value of the property, but he has mentioned in his report about the value of the property by obtaining information from the Sub-Registrar of the concerned jurisdiction and he has denied that he has given false report to the Election Commission of India as per Exs.P5 and P9.

56. On perusal of the Ex.P5(c), the details of the immovable assets, P.W.2 has mentioned the details of the agriculture land situated at Bhavinkere village as mentioned by the respondent No.1 in his affidavit and the value of the property at the time of purchase and the value of the properties as per the information

received from the authorities, he has mentioned that Rs.4,47,130/- is excess declared by the respondent in respect of Sy.No.9/1 (measuring 1.36 guntas). In respect of Sy.No.9/2, respondent No.1 declared the value was Rs.6,75,000/- and purchase value was Rs.7,27,925/- thereby, he has declared Rs.52,945/- which is excess. Likewise, in Sy.Nos.13/1, 16/3, 16/2, 17/1, 17/2, 13/2, the respondent No.1 declared less amount of Rs.43,23,010/-, Rs.5,16,585/- is less amount declared and another Rs.19,91,243/- which is less declared and in respect of Sy.No.17/1, respondent No.1 has declared excess of Rs.87,757/- and in Sy.No.17/2 declared less amount of Rs.17,11,855/- and in respect of Sy.No.13/2, he has declared less amount of Rs.80,39,650/-.

57. As per Ex.P5(d), it is mentioned by the PW2 in total, the respondent No.1 declared in the affidavit as under:-

Sl. No.	Details as per affidavit	Declaration as per affidavit	As per affidavit approximate current market value (mentioned in affidavit)	Market value/SR value as on 22.03.2019 by concerned authorities	Remarks/findings
1	Details of Agricultural Land	Nelamangala Taluk, Kasaba Hobli, Bhavinkere Village			
		1 S.No.9/1 (1.36 guntas)	54,00,000-00	70,00,000-00	A less amount of Rs.16,00,000-00 is declared
		2 S.No.9/2 (0.18 guntas)	9,00,000-00	18,00,000-00	A less amount of Rs.9,00,000-00 is declared
		3 S.No.13/1 (1.28 guntas)	41,00,000-00	2,21,00,000-00	A less amount of Rs.1,80,00,000-00 is declared
		4 S.No.16/3 (1.02guntas)	32,00,000-00	63,00,000-00	A less amount of Rs.31,00,000-00 is declared
		5 S.No.16/2/ (1.36 guntas)	36,00,000-00	1,14,00,000-00	A less amount of Rs.78,00,000-00 is declared
		6 S.No.17/1 (0.38guntas)	32,00,000-00	57,00,000-00	A less amount of Rs.25,00,000-00 is declared
		7 S.No.17/2 (1.30 guntas)	33,00,000-00	1,05,000-00	A less amount of Rs.72,00,000-00 is declared
		8 S.No.13/2 (3.06 guntas)	72,00,000-00	4,09,50,000-00	A less amount of Rs.3,37,50,000-00 is declared
		Holenarasipura Taluk, Kasaba Hobli, Margowdanahalli Village			
		9 S.No.150/1 (1.35 guntas)	16,30,000-00	19,23,825-00	A less amount of Rs.2,93,825-00 is declared
		10 S.No.151/1 (0.18 ½ guntas)			
		11 S.No.151/3 (0.20 guntas)			
		12 S.No.150/2 (1.16			

			guntas)			
		13	Paduvalahippe Village S.No.72 (4 guntas)	12,00,000-00	19,68,000-00	A less amount of Rs.7,68,000-00 is declared
			Hassan Taluk, Dud	da Hobli, Gowrip	ura Somanahalli	Kavalu Village
		14	S.No.62(5.36 guntas)			A less amount of Rs.12,79,125-00 is declared
		15	S.No.63(5.05 guntas)	14,22,000-00	27,01,125-00	
		16	S.No.46(4.27 guntas)			A less amount of Rs.14,48,125-00 is declared
		17	S.No.47(4.38 guntas)	9,10,000-00	23,58,125-00	
2	Non-Agricultural Land	1	Mysore Taluk, Srirampura S.No.3/1 (1.31 guntas)	90,00,000-00	2,13,00,000-00	A less amount of Rs.1,50,000-00 is declared
			S.No.3/3 (0.09 guntas)		27,00,000-00	
		2	Holenarasipura Taluk, Dakshina nala Village S.No.261/4	36,00,000-00	16,81,875-00	A less amount of Rs.52,81,875-00 is declared
		3	Hassan Taluk, Hassan B.M. Road Site No.289/430-3157 Sq.Ft.	81,00,000-00	76,75,483-00	A excess amount of Rs.4,24,517-00 is declared
		4	Site at Holenarasipura Site No.959,960-9856 Sq.Ft. (Gift Deed)	68,00,000-00	1,48,33,280-00	A less amount of Rs.80,33,280-00 is declared
			TOTAL	5,35,62,000-00	16,28,91,713-00	

58. On perusal of the reply, it reveals that the respondent has declared Rs.16,00,000/- less in Sy.No.9/1, Rs.9,00,000/- in Sy.No.9/2, he has declared less amount of Rs.1,80,00,000/- in Sy.No.13/1 and Rs.31,00,000/- less in respect of Sy.No.16/3, Rs.78,00,000/- less in Sy.No.16/2, Rs.25,00,000/- less in Sy.No.17/1. Rs.72,00,000/- in Sy.No.17/2 and Rs.3,37,50,000/- less in respect of Sy.No.13/2. These properties were situated at Bhavinkere village, Kasaba Hobli Nelamangala.

59. The learned counsel for the respondent No.1 has not examined any witness on behalf of the respondent No.1 to disprove the evidence of PW2 - the Deputy Commissioner, who gave the report as per Ex.P5, 5(b) and 5(c) where it is clear that there is difference in purchase value, guidance value and declared value in almost all the landed properties purchased by the respondent No.1 at Nelamangala taluk, Kasaba Hobli, Bhavinkere village. As far as the

property at Holenarasipura, Maragowdanahalli village, the property at Gowripura, Somanalli Kavalu village and non agriculture land at Holenarasipura received from his father were all declared less amount than the actual market value as well as the guidance value to the tune of Rs.2,93,825/- in Sy.No.150/2 and Rs.7,68,000/- in respect of Holenarasipura landed property. In respect of Sy.No.72 of Gowripura Somanalli Kavalu village, he has declared less amount than the market value and also regarding non agricultural land at holenarasipura he has declared less value of Rs.52,81,875/-, Rs.4,24,517/-, and Rs.80,33,280/- in respect of non agriculture lands situated at Holenarasipura village, Hassan. Though the petitioner not disputed in respect of the value mentioned by the respondent No.1 for the property situated at Hassan Taluk but disputed only the value of the property at Holenarasipura as well as Bhavinkere village and the Ex.P5 (b) and (c) were not contraverted by respondent's counsel.

60. On the other hand, the respondent's counsel relied upon the judgment of the Hon'ble Supreme Court in respect of **INDIAN COUNSEL OF MEDICAL RESEARCH Vs TN SANIKOP AND ANR** reported in **(2014) 16 SCC 274** paragraph 20 of the judgment, the Hon'ble Supreme Court has held that while determining the market value of the land, one can never come to any exact figure of price of lands because in the very nature of things, prices are bound to vary from land to land and further depending upon the individual buyer to buyer, seller to seller, reason behind the sale and purchase etc. However, the courts, in such case, always exercise their discretion within the permissible parameters after appreciating the evidence on record and applying relevant legal principles. The learned counsel contended that, the value declared by the respondent is correct. But, in my considered view, the said judgment will not come to the aid of the respondent as the observation made by the Hon'ble Supreme Court for determination of the market value is for the purpose of awarding

compensation in land acquisition matter and there were settled principles and guidelines issued for the purpose of calculating fair market value while awarding compensation. But here, in this case, the respondent No.1 has declared the value of his immovable properties in the affidavit in Form No.26 in order to secure the votes from the general public while contesting the election. Hence, he has to declare the actual value which was purchased by him and the market value of the immovable property. As per the evidence of the PW1, PW2 and PW4 and PW3 and Exs.P5 and P9 in both case, it is clear that the respondent No.1 declared the value of the immovable properties less than the market value as well as the guidance value. Therefore, I am of the view the petitioner is successful in proving issue No.2 that, the respondent No.1 given false information and false declaration of the value of the immovable properties in his affidavit Form No.26. Hence answered **Issue No.2** in the **AFFIRMATIVE** in favour of the petitioner and as against the respondent No.1.

61. ISSUE No.3

Whether the petitioner proves that respondent No.1 has mislead the voters in respect of the firm Chennambika Convention Hall for which respondent No.1 is a partner?

and

ISSUE No.5

Whether the petitioner proves that respondent No.1 concealed his investment in the firm Chennambika Convention Hall and it was obligation on his part to disclose the same ?

The petitioner has stated in the petition that respondent No.1 is the partner of Chennambika Convention Hall and respondent No.1 has spent lot of investment in constructing the said Hall, but he has not declared the same, and, thereby, he has mislead the voters. The petitioner has not lead any evidence or produced any document in support of his contention.

But respondent No.1 has declared in Ex.P.1-affidavit No.26 at column No.7A(3) that he is having the investments in bonds, debentures/shares, unit in companies, mutual funds and others, and the amount where the respondent stated that Chennambika Convention Hall is Rs.14,66,666/-, but respondent No.1 has not stated that whether he is the partner of the firm or he is having bond or debentures in the firm. The petitioner though taken the contention in paragraph-K of the petition, but he has not lead any evidence in this regard. However, it is the duty of the respondent No.1 to declare that he is the partner of the Chennambika Convention Hall but he has not disclosed as to whether he is the partner or he is having any shares in the Chennambika Convention Hall. Therefore, without production of any document in this regard, the contention of the petitioner that respondent No.1 is the partner of Chennambika Convention Hall, cannot be acceptable. (Though the petitioner in E.P. No.2/2019 lead evidence in respect of Chennambika Convention

Hall, but that will be discussed in the later part of the judgment). The learned counsel for the respondent No.1 has rightly contended that there is pleading, but there is no evidence. In this regard, learned counsel for respondent has relied upon the judgment reported in **2000 (8) SCC 191** in the case of **RAVINDER SINGH Vs. JANMEJA SINGH**, reported in **2011 (8) SCC 613** in the case of **RAMESH KUMAR Vs. FURU RAM** and reported in **2012 (3) SCC 236** in the case of **MARKIO TADO Vs. TAKAM SORANG**. In view of the principles laid down by the Hon'ble Supreme Court, I hold that the petitioner has failed to prove issue Nos.3 and 5. Hence, I answer **Issue Nos.3 and 5** in the **NEGATIVE**.

62. ISSUE No.6:

Whether the petitioner proves that respondent No.1 has concealed the actual balance of the bank account of Karnataka Bank, Minerva Circle branch, held by him and if so, it vitiates the election?

and

ISSUE No.8:

Whether respondent No.1 proves that he was not aware of the remittance of Rs.50.00 lakhs into his savings bank account in Karnataka Bank by one Kuppendra Reddy, Member of Parliament (Rajya Sabha)?

The petitioner has stated in the pleadings that respondent No.1 is having the savings bank account No.0622500101373401 in Karnataka Bank, Minerva Circle Branch, Bengaluru and he had the balance of Rs.49,09,583/- in the said account, but respondent No.1 has declared in his affidavit that the balance in the said account was Rs.5,78,238/-. The petitioner further contended that respondent No.1 received Rs.50.00 lakhs from Sri Kuppendra Reddy, who was the Rajya Sabha Member and the said amount has been credited to account of respondent No.1, but he has not declared in his affidavit. The petitioner, in his evidence, at paragraph No.5, has reiterated the same and he has

produced the certificate issued by the said Bank Manager as per Ex.P.57. Respondent No.1, in his cross examination, has stated that he was not aware that Kuppendra Reddy transferred Rs.50.00 lakhs to his account on 11.03.2019, and further contended that the respondent No.1 obtained the statement of accounts from 01.04.2018 till February 2019. Therefore, as per the statement, the balance as on 27.02.2019 was Rs.5,78,238/-but not Rs.49,09,583/-.

63. In this regard, respondent No.1 also lead evidence and has stated in his deposition that he was not aware regarding transfer of Rs.50.00 lakhs by Kuppendra Reddy, it was subsequent to statement of accounts obtained by him. Therefore, he has stated that he has mentioned the bank balance till 27.2.2019. In the cross examination of R.W.1, the learned Senior Counsel for petitioner in E.P. No.1/2019 got an admission that account No.0622500101373401 mentioned in Ex.R.3 is not reflected or mentioned in

Ex.P.1 that the balance amount as per Ex.R.3 was Rs.54,59,973/-. But respondent No.1 declared in his affidavit in Form No.26 (Ex.P.1) that he is having the balance of Rs.5,78,238/-in Karnataka Bank.

64. The learned Senior Counsel for respondent No.1 has argued that the auditor of respondent No.1 advised respondent No.1 to take the balance in the account till the end of February 2019. In this regard, the respondent has examined R.W.2 Nagin Chand Kincha, the auditor of respondent No.1, who has stated that as per his advise, respondent No.1 took out the statement in the bank account up to 28.02.2019. However, in the cross examination, R.W.2 has admitted that while filing the nomination by respondent No.1 on 23.02.2019, he has not checked the balance amount from 01.03.2019 to 22.03.2019. In view of the admission made by R.W.2 as well as respondent No.1 in his evidence, it is clear that respondent No.1 had the balance of more than Rs.49,09,583/- as on 22.03.2019.

65. It is also revealed in the evidence of P.W.5, who is the Senior Manager of the Karnataka Bank, that he has issued Exs.P.12 and P.13 and respondent No.1 was having the balance of Rs.55,95,910/- as on 11.03.2019 and subsequently, there was no transaction till 21.03.2019 and the balance in the account of the respondent No.1 as on 22.03.2019 was Rs.49,09,583/-.

The learned Senior Counsel for respondent No.1 has not controverted the evidence of P.W.5 that respondent No.1 was having the balance of more than Rs.49.00 lakhs, but in the nomination affidavit Form No.26, respondent No.1 has mentioned the balance only for Rs.5,78,238/- and he has not mentioned that this balance was at the end of February 2019. He was supposed to declare the bank balance as on the date of filing the nomination or, at least one or two days prior to the filing of nomination and it required to be mentioned atleast a day prior to 22.03.2019.

Absolutely, there is no mention by respondent No.1 in

his affidavit, but he has transacted even after 1.3.2019 till 21.3.2019 (the said evidence came in E.P.No.2/2019) as he has paid some taxes to the Mysore Urban Development Authority. Therefore, the explanation of respondent No.1 that he was ignorant of the amount received from Kuppendra Reddy, is not acceptable and he has not mentioned in the affidavit that he is liable to pay Rs.50.00 lakhs to Kuppendra Reddy. On the other hand, the petitioner is successful in proving that respondent No.1 concealed (suppressed) the actual balance amount in the bank account No.0622500101373401 of Karnataka Bank, Minerva Circle branch. Hence, I answer **Issue No.6** in the **AFFIRMATIVE** and **Issue No.8** in the **NEGATIVE** as the respondent failed to prove this issue.

66. **Issue No.5 in E.P.No.2/2019**

Whether the petitioner proves that the non disclosure of material information by respondent No.1 in Form No.26 as contemplated under Section 33A of RP Act and

he has committed corrupt practice of bribery as contemplated under Sections 123(1)(A), 123(1)(B), 123(7), 123(7)(b), 123(vii)(d), 123(7)(h) and Section 123(8), 123(3), 3A and 123(6) of R.P. Act ?

The petitioner in E.P. No.2/2019 has contended that respondent No.1 committed corrupt practice of bribery as contemplated under Section 123 and various sub Sections of R.P. Act and Section 123(1)(A) of R.P. Act. The petitioner has stated in the petition that respondent No.1 filed his nomination paper and an affidavit in Form No.26, but he has not disclosed all the information and he has given false information and suppressed most of the information. In spite of the objections raised by the petitioner, the Returning Officer accepted the nomination paper of respondent No.1. The contentions of the petitioner are as under:

(a) The petitioner has contended that respondent No.1 was the partner in two firms namely M/s. Adikarah Ventures LLP and as on the date of filing nomination, he was continued to be a partner of the

firm and he has not disclosed in the affidavit filed on 22.03.2019. In this regard, the petitioner lead the evidence and got marked Ex.P.15 which is the document pertaining to the M/s. Adikarah Ventures LLP and Ex.P.15(a) is the document pertaining to M/s. Drone Work Force LLP. In the cross-examination, it was suggested by the respondent counsel that the respondent No.1 already tendered resignation to both the firms as on 19.03.2019. In the cross examination, the P.W.1 has stated that he is not having any knowledge about tendering resignation by respondent No.1 to those companies as a partner. He has also stated that he has not approached the office of the Registrar of Companies or personally verified the resignation of respondent No.1 to the above said firms. The learned Senior Counsel for the petitioner has contended that respondent No.1 was the partner of both the firms and he had investment to the extent of 20% and 25% respectively, but he has not disclosed the same. Ex.P.15 is the master data where it reveals that the respondent No.1 was the partner of

M/s. Adikarah Ventures LLP ., Ex.P.15(a) is the master data to show that he is one of the partners of the Drone Work Force LLP. The respondent No.1 has contended that he has already resigned from the said firms as on 19.03.2019, the same was accepted by the other partners of the firm by resolution and they have sent the information to the Registrar of the Companies. In this regard, the petitioner in E.P.No.1/2019 has got marked Exs.P.10 and P.11 and the same was admitted by the respondent, the said documents were marked by the petitioner in E.P.No.1/2019 which were admitted documents and it clearly reveals, respondent No.1 already resigned from the firm which was accepted by the other partners of the firm by way of resolution. The petitioner in both the cases also got examined PW.9-B.Annapurna, the Deputy Registrar of Companies and this witness has stated that Exs.P.10 and P.11 are the documents pertaining to respondent No.1 where he was the partner in both the firms and he had a share of investment in both the firms. After the resignation of the respondent No.1, the said share was appropriated

by the remaining partners. P.W.9 has also stated they received the information from the firm and also the amended agreement dated 19.03.2019 and the same was accepted by their office. The learned counsel for the petitioner has tried to bring in the evidence stating that 30 days notice required to be given prior to resignation by a partner. P.W.9 has also stated that as per Section 24(1) of Limited Liability Partnership Act, 2008 (for short 'LL.P. Act'), there is no need to give 30 days notice when there is an agreement between the parties and 30 days notice is required only when there is no agreement. Here, in this case, there is an agreement between the partners of the firm and after the resignation of respondent No.1, it was accepted by the firm and amended agreement was prepared as per Exs.P.10(f) and P.11(f). P.W.9 also deposed that their office approved the resolution on 26.03.2019. Therefore, it is suggested to P.W.9 by the petitioner's counsel that respondent No.1 was continued to be a partner till 26.03.2019, but, PW.9 has stated that as soon as the respondent resigned from the firm, which

was accepted by the firm and the same was approved by the Registrar of Companies, the resignation will come into effect from 19.03.2019 but not from 26.03.2019. In view of the evidence of PW.9 and Exs.P.10 and P.11 marked by the petitioner counsel that, I hold, as on the date of nomination filed i.e., on 22.03.2019, respondent No.1 was not the partner of both the firms. Therefore, he need not be declare in the Form No.26. This Court has already given finding in respect of issue No.1 in E.P.No.1/2019 in favour of the respondent. Therefore, I hold that the petitioner failed to prove the contention that the respondent No.1 not given proper information and investment made in both the firms and therefore, answered **NEGATIVE** against the petitioner.

(b) The petitioner also contended that the respondent No.1 is bound to disclose the liabilities and loans, if any taken, and he has stated in column No.8 in Part-A of the Form No.26 and disclosed that he has borrowed loan from 16 persons, which are as under:

Sl. No.	Name of the Lender	As declared in the affidavit (Rs.)	Whether actually paid or not as per the Lokayukta Report and Bank statement (Rs.)	Nature of loan as declared by respondent No.1
1	Smt. Anasuya Manjunath	20,00,000	Nil	Personal loan Difference amount
2	Sri C N Pandu	15,00,000	Nil	
3	Sri C N Puttaswamy	40,00,000	Nil	
4	Sri D K Nagaraju	19,97,550	Nil	
5	Sri H D Revanna	1,26,36,000	74,00,000	
6	Sri Jayarama	20,00,000	Nil	
7	Sri Kalegowda	10,00,000	Nil	
8	Sri P B Boregowda	29,94,650	Nil	
9	Smt Shaila Chandrasekar	10,50,000	Nil	
10	Srinivasa Associates	5,00,000	Nil	
11	Smt Bhavani Revanna	43,75,000	30,00,000 (as per Bank statement)	As per Lokayukta Report
12	Sri Babu M C	5,00,000	Nil	
13	Sri Devegowda	5,00,000	Nil	
14	Sri Kumar	5,00,000	Nil	
15	Sri M N Shiregowda	10,00,000	Nil	
16	Sri Venkatesh	5,00,000	Nil	

67. The petitioner further contended that the respondent No.1 has declared that the loan borrowed from his father H.D.Revanna was Rs.74,00,000/-, but as per the declaration made by H.D.Revanna before the Lokayuktha in the year 2018, he has declared that loan given to his son was Rs.1,26,36,000/-, thereby, respondent No.1 has shown a wrong information in the affidavit and there was difference of Rs.52,36,000/-. In this regard, the petitioner has not produced the declaration made by H.D. Revanna before the Lokayuktha. On the other hand, it was suggested to R.W.1 in the cross examination where R.W.1 admitted that his father declared in his assets and liabilities before the Lokayuktha by showing the loan given to him was Rs.46.00 lakhs as on 30.07.2018. Though R.W.1 has stated that there was subsequent transaction between himself and his father. Likewise, the petitioner has also stated that R.W.1 borrowed loan from his mother Bhavani Revanna to the tune of Rs.43,75,000/-, but as per the evidence of P.W.11- Dr. Abhinav Pitta,

Income Tax Deputy Commissioner and P.W.12- Praveen Sinha, Asst. Commissioner of Income Tax that R.W.1- Prajwal Revanna in his income tax returns has not declared that he has borrowed the loan of Rs.1,26,36,000/- from his father and Rs.43,75,000/- from his mother. Neither Revanna nor Bhavani Revanna has declared in their income tax returns that they have lent loan to their son. The petitioner has produced Exs.P.30 to P.44, the income tax returns of R.W.1 and his parents, which clearly reveal that there is no such disclosure of the loan amount by all these three persons. Therefore, I hold that respondent No.1 made wrong declaration about loans in his affidavit in column No.8 of the nomination paper. Hence, I answer this point in favour of the petitioner and against the respondent.

(c) The another contention taken by the petitioner is that respondent No.1 is having S.B. account in Karnataka Bank, Minerva Circle Branch and

he has declared the balance amount as on the date of nomination was Rs.5,78,238/- but, as per the Bank Statement, the balance amount was Rs.49,09,583/-.

There is difference of Rs.43,31,345/- which is a false declaration and also the respondent No.1 borrowed loan of Rs.50,00,000/- which was not declared in the affidavit. To prove this contention, the petitioner himself was examined as witness, deposed the same and got marked the nomination filed by the respondent No.1 where the respondent has declared that the amount balance available in his account as Rs.5,78,238/-. The petitioner examined P.W.5 - Sathish Kishore K., Senior Branch Manager, Karnataka Bank has deposed that Ex.P.7 is the letter issued by his predecessor which is the statement of account belongs to respondent No.1. The petitioner also produced Exs.P.12 and P.13 and deposed that as on 11.03.2019, the balance amount in the account of respondent No.1 was Rs.55,95,910/- and thereafter, there was no transaction and as on 22.03.2019, the

balance was Rs.49,09,583/-. In the cross-examination, the learned counsel for the respondent has contended that they are not sending the alert information to the customer for having transferred any amount to the account holders. In order to controvert the evidence of PW.1, the respondent No.1 stated in his evidence that he has obtained the statement of accounts only up to February 2019 and therefore, he is not aware about the transfer of an amount of Rs.50,00,000/- by Kuppendra Reddy to his account on 11.03.2019. He also stated that the said Kuppendra Reddy also not informed him about the transfer of the said amount. To prove his contention, the respondent also got examined his auditor one Nagin Chand Kincha as R.W.2, who has deposed that as per his instruction, respondent No.1 obtained the statement of accounts and balance till 28.02.2019 and in the cross-examination, he has admitted that he is not aware about the transaction made by the respondent No.1 between 01.03.2019 and 22.03.2019. He also further deposed his ignorance

that he is not aware that assets and liability statement shall be filed as on the date of filing the nomination paper. But he has admitted the filing of the nomination for the last day was 23.03.2019. Admittedly, respondent No.1 filed nomination on 22.03.2019. On perusal of Ex.P.5, he has mentioned or declared the balance in his account was only Rs.5,00,000/- and odd, but, in fact as per Ex.P.7 and evidence of PW.5, the balance was Rs.49,09,583/- as on 22.03.2019 and therefore, I hold the respondent No.1 not furnished the correct balance in his account at Karnataka Bank, Minerva Circle Branch. Apart from that, he has also not declared the loan obtained from Kuppendra Reddy, a Rajya Sabha M.P. for Rs.50,00,000/- in his affidavit, even though he has declared 16 names in column No.8 of Part A. Therefore, I am of the view, that the petitioner has proved that the respondent made a false declaration in respect of his balance in the account and suppressed the loan of Rs.50,00,000/- obtained from

Kuppendra Reddy. Hence, answered this point in the
AFFIRMATIVE.

(d) The petitioner has further contended that respondent No.1 declared in column No.11 of Part B in affidavit Form No.26, that a sum of Rs.4,89,15,029/- paid through D.D. and RTGS for the purpose of purchasing agriculture properties but the father of respondent No.1, the sitting MLA has declared that he has paid Rs.47,36,000/- to the respondent No.1, thereby, there was a false declaration. But, the petitioner has not lead any evidence and also not produced any document to show that this amount was borrowed from his father in order to purchase the agricultural lands. Therefore, I hold the respondent's counsel has rightly contended that though there was a pleading, but there was no evidence. Therefore, I answered this point against the petitioner in the

NEGATIVE.

(e) The petitioner further contended that respondent No.1 declared that he has purchased various agricultural properties in different places totally 8 properties, but only 4 sale deeds are the registered sale deeds and three more properties pending for registration, even though the said properties belong to the Government and not available for registration which amounts to the land grabbing and further contended that there was a false declaration.

(e)(i) In respect of sale deeds in survey Nos.16/2 and 17/1, the petitioner has deposed that one sale deed containing two survey number of lands, therefore, it is contended by the petitioner that it is false declaration. In this regard, the respondent No.1 himself produced and marked the document as per Ex.R.24 which is also marked by the petitioner as per Ex.P.11. On perusal of Ex.P.11, the respondent has purchased land in survey No.16/3 on 15.09.2010 and on the same day, he has also purchased one more land

in Sy.No.17/2. Therefore, Ex.P.11 cannot be considered as document in respect of the land in survey Nos.16/2 and 17/1 contended by the learned counsel for the petitioner. However, the respondent got marked Ex.R.24, the sale deed dated 15.09.2010, the respondent purchased lands in survey No.17/1 measuring 38 guntas and survey No.16/2 measuring 1 acre 38 guntas and the same was declared by the respondent in the affidavit. Though he has mentioned two survey numbers in the declaration, in fact, it was purchased in one sale deed. The respondent No.1 has not given any explanation in respect of Ex.R.24 where he has stated Ex.R.24 contains only survey No.17/1, but in fact he had purchased two properties i.e., Sy.Nos.17/1 and 16/2 under Ex.R.24-the sale deed. However, the said sale deed containing the purchase of both the lands under the sale deed No.3005/2010-11. Therefore, it may be the details mentioned by respondent but it cannot be said that it is a false

declaration. Hence, the contention of the petitioner is not acceptable.

(e)(ii) The learned counsel for the petitioner further contended that the survey Nos.16/3, 17/2 and 13/2 are at Bhavinkere Village. The petitioner has produced the RTCs which speak something else and show the names of Ravishankar and Ramachandra, which were acquired for the purpose of National Highway and name of the respondent No.1 did not find place in the RTCs. The petitioner has deposed the same and marked RTCs as per Exs.P.13 and P.13(a) to (d). On the other hand, the respondent No.1 has deposed in his evidence stating that the land in survey Nos.16/3 and 17/2 were not forfeited by the Government when he purchased the property in the year 2009 and there was a civil litigation pending between his vendor and vendor's vendor. He also stated that the registration was kept pending for want of 11E sketch. The petitioner also got examined PW.4 - Ambika Patel, the

Sub-Registrar, and she has stated in her evidence that at the request of the Deputy Commissioner, she sent the list of guidance value of the properties of Bhavinkere Village and encumbrance certificate as per Exs.P.8(e), (f) and (g). In the further evidence, she has stated that the sale deed in respect of survey No.17/2 (Ex.P.11), the sale deed was kept pending registration. This witness also identified that Ex.P.10 is the sale deed in respect of survey No.16/3. In the cross examination, she has stated that the sale deeds were not registered and it was kept pending for want of 11E Sketch. Though the petitioner's counsel produced document and contended that the respondent was not the owner of the land but respondent No.1 himself has declared as owner. However, names of the owner in the said document were shown as Ravishankar and Ramachandra who were all the erstwhile owners of the property and the registration was not completed. Therefore, the name of respondent No.1 cannot be entered in the RTC. Therefore, the contention of the

petitioner that respondent No.1 has given wrong information in the affidavit cannot be acceptable. As regards to the acquisition of the land by the National Highway Authority, the respondent has stated that he was not aware about the acquisition and he came to know subsequently. Therefore, when he has not received any notice from the Highway Authority in survey No.13/2 and without his knowledge regarding acquisition, he has declared that he has purchased property in survey No.16/2, the contention of the petitioner cannot be acceptable that it is a false declaration. Likewise, when the litigation is pending in respect of the land which he has purchased in survey No.17/2 in O.S.No.482/2015 and O.S.No.326/2011 on the file of Senior Civil Judge, Nelamangala, and in view of the litigation pending, reflecting the name of this respondent in the RTC does not arise. Therefore, once he has purchased the property under the sale deed, he has to declare in the affidavit as to whether his name is mutated in the RTC or not.

(e)(iii) As regards to the land in Sy.No.3/1 of Srirampura Village Mysore Taluk, it is contended by respondent No.1 that the said property belongs to him but in the document, the name of one Maramma, Wife of Nanjaiah is mentioned. Apart from Maramma, it also mentions the name of Brindavan House Building Co-operative Society. In respect of Sy.No.3/3 of Srirampura village, learned counsel for petitioner contended that respondent No.1 has been declared as owner of the property, but the RTC shows the name of one - Nagarathnamma, therefore, it is a false declaration. The petitioner has also deposed in his evidence that even though the respondent No.1 was not the owner of property, he has wrongly declared as his property. On the other hand, respondent No.1 (RW1) has stated in his evidence that Sy.Nos.3/1 and 3/2 of the said land were wrongly mentioned as Sy.Nos.3/2 and 3/3 and these properties were bequeathed by his grand mother Nagarathnamma under the 'Will' and the

said Nagarathnamma died long back and has produced the death certificate of Nagarathnamma as per Ex.R19. He has also got marked the certified copy of the 'Will' as per the Ex.R8 wherein in the said 'Will', the property Sy.Nos.3/3 and 3/2 were mentioned and as per Ex.R19, his grandmother died on 16.1.2010 but the name of the respondent not entered in the documents. Therefore, it cannot be said that as on that date, he has not got the right over the property, but he has declared in his affidavit. Therefore, the contention of the petitioner cannot be acceptable that it was the wrong declaration. Therefore, the contention of the petitioner's counsel that the declaration of the ownership of the properties in the Form No.26, even though respondent No.1 is not the owner of the property, cannot be acceptable. However, though respondent No.1 declared that all these properties were purchased by him and he is said to be purchased the land, there is no registration of sale deeds for want of sketch and he purchased some of the lands in Bhavinkere village which is a disputed property

and litigations were pending, but he had declared the value of those properties in the nomination Form No.26. As per the evidence of P.W.2 in E.P.No.1/2019, the Deputy Commissioner of Hassan, given a reply to the report called by the Election Commission of India and he has given report on 29.04.2019 as per Ex.P.7, the respondent not declared that he has borrowed Rs.23.00 lakhs from his grand father/grand mother and the values shown in the report - Exs.P.9 and P.9(c). The respondent declared less amounts in his affidavit in respect of value of those properties which has been discussed by this Court in issue No.2 and answered against the respondent. Therefore, declaring the wrong valuation of the property by him is nothing but a wrong declaration, which is nothing but a corrupt practice under Section 123(2) of R.P. Act.

(e)(iv) The petitioner also contended that in column No.7A of Form No.26 that the SB Account in Karnataka Bank, Minerva Circle Branch had balance of

Rs.49,09,593/- but he has declared only Rs.5,78,238/- which is a false declaration. In this regard, this Court has already discussed in detail in issue No.6 in E.P. No.1/2019 and answered against the respondent No.1 for wrongly declaring the balance in the SB Account in Karnataka Bank, Minerva Circle Branch.

68. As regards to the another contention that a wrong information mentioned by respondent No.1 in part 7A of Column 5 in item No.1 that he has lent loan to his brother for a sum of Rs.37,20,000/-, the said fact is not correct, but the actual loan lent was Rs.76,00,000/- through SB account, Karnataka Bank and therefore, it is incorrect declaration. But the respondent denied the same. The suggestion was made that he has lent loan of Rs.66,70,000/-, but wrongly declared in his affidavit as Rs.37,20,000/. But on verifying Ex.R.28, on careful calculation, which reveals that the respondent lent the amount of Rs.73,70,000/- to Suraj Revanna and as on 17.08.2012, he has

received back Rs.4.00 lakhs from Suraj Revanna, thereby the respondent lent loan of Rs.69,70,000/- to his brother. Therefore, his declaration in the nomination form that he has lent loan for Rs.37,20,000/- is not correct and it is wrong declaration.

69. As regards to the another allegation that as per financial bill 2007, Section 269 ST, the Income Tax Act, provides that no person shall receive an amount of Rs.2,00,000/- or more aggregate from a person in a day or a single transaction by cash it should be only online transfer. But the transactions shown by the respondent No.2 in the Election Petition were all cash transactions and does not contain any details. Therefore, it is contrary to the Section 269 ST of IT Act. In this regard, though RW1 has stated that all the transactions are online transactions but no such document is produced in order to show that he has borrowed the loan from various persons only through

Bank but not cash. Therefore, the petitioner is successful in proving that the respondent No.1 transacted by way of cash and it is not properly declared the cash by borrowing loans and payments made, but no details were mentioned in the declaration Form No.26.

70. As regards to the corrupt practice, the petitioner has contended that the respondent has committed corrupt practice of bribery as contemplated under Section 123 of the R.P. Act.

71. In order to prove this issue, the learned counsel for the petitioner has contended that the father of respondent No.1 was an In-charge Minister of Hassan District and sitting PWD Minister, by misusing his power, diverted the fund pertaining to the Cauvery Neeravari Nigam Limited (CNNL) as the uncle of respondent No.1 was the Chief Minister of the State who is the Chairman of the CNNL. With his instruction, they diverted the fund allocated by the State for

irrigation purpose, but they diverted the same for constructing the Bhavan, Temple, formation of road etc. In order to prove the said contention, PW.1-petitioner has deposed that the father of respondent No.1 diverted the funds from the CNNL for other purposes by influencing the voters. The witness has stated that the father of the respondent No.1 diverted Rs.576.00 crores released by the State Government for irrigation project for entire Hassan District, but, by influencing the Managing Director, Executive Engineer and Assistant Executive Engineer diverted the fund for some other purpose. A complaint has been filed to the Lokayuktha and the said Lokayuktha has not taken any action against the father of the respondent. He has produced Ex.P.17-the complaint filed by one Gavirangegowda of Malali Village, Halekote Hobli, Holenarasipura, where the petitioner was the advocate for the complainant that complaint was filed long back and an acknowledgment was issued by the Lokayuktha which is marked as Ex.P.17(a). The complaint was lodged on

14.06.2019, but no action was taken by the Lokayuktha. The petitioner also produced Ex.P.17(b) which are the documents for having utilized the amount for construction of Temple and other purposes other than the irrigation work. There were almost 149 work executed, most of them were construction of temples, temple compounds, construction of roads, drainages etc. In order to prove the said fact, the petitioner also summoned the witnesses and examined one Shankare Gowda as PW.18 who has deposed that he is the MD of CNNL and also produced the document i.e., Ex.P.49 regarding fund allocation and expenditures. He also produced Ex.P.50, the list of Chairman and members of CNNL for the year 2017-18 and Ex.P.51 for the year 2018-19. The grant released by the State was marked as Exs.P.52 and P.52(a) and he further deposes that the fund allocated to Gorur Circle in 2018-19 was Rs.943.62 crores and the said amount was released for tank filling schemes, improvement and modernization of canals and also road formation at catchment areas and

some amount for public purpose. He has stated that the said fund cannot be diverted to any other purpose and he has also admitted that the Chief Minister will be the Chairman, and the Irrigation Minister will be the Vice Chairman. But he has stated that there is no role in respect of In-charge Minister of Hassan in the Board activities and he is not a member of the Board. He also deposes that the public can request the development programmes and the District Minister can also make such requests for such developmental programmes. In the cross examination, the learned counsel for the respondent has contended that the resolution is required to be passed by the Board members including the Chief Minister, then, they can ascertain the projects and release the fund. But this witness has not denied that there is no involvement of the District In-charge Minister in the projects taken by the Board in the resolution and not denied the intervention and participation of the In-charge Minister in the Board Meetings. Normally, the District In-charge Minister will

always be notified in respect of every meeting conducted by the Chairman of the CNNL and the facts should not be forgotten that the Chief Minister at that time was H.D. Kumarswamy and the District In-charge Minister for Hassan H.D. Revanna is none other than the elder brother of H.D. Kumarswamy and respondent No.1 is the son of H.D. Revanna. Therefore, the contention of the respondent cannot be acceptable that the funds were not diverted. On the other hand, Ex.P.17(b) reveals that the funds were diverted and spent other than the irrigation projects, thereby, the petitioner is successful in proving that the respondent influenced the voters by making development works by way of diverting the funds which amounts to corrupt practice. Hence, answered the said point in the **AFFIRMATIVE** in favour of the petitioner.

72. As regards to another corrupt practice, the petitioner has stated that the respondent tried to bribe by sending Rs.1,20,000/- for distributing to the voters

through the brother of respondent No.1 -Dr.Suraj Revanna while proceeding in the official car used by his father in Car No.KA.01.MH.4477 which was seized by the flying squad and a case was registered in Crime No.59/2019 and it is marked as Ex.P.16-FIR which was seized by the Police and PW.1-Devarajegowda has deposed in this regard. In the cross examination, the respondent has denied the same and contended that the police filed 'B' final report.

73. As per the evidence of the petitioner PW.1 and the documents, Ex.P.16 reveals that the police registered the FIR against the brother of the respondent No.1 when the car belongs to his father has been intercepted and verify the same, Rs.1,20,000/- cash was seized and admittedly, a case was registered by the Holenarasipura Police station. Respondent No.1 denied the same and he has contended that the amount was sent by his mother Bhavani Revanna for purchasing the grocery and therefore, the police have filed 'B' Final

report. But the said 'B' Final report not produced by the respondent to show there is no substance in the complaint and on the other hand, it is a Government Vehicle provided to the father of respondent No.1 who is the District In-charge Minister and the vehicle was used by the son of the Minister and cash of Rs.1,20,000/- was seized by the squad.

74. The respondent examined as R.W.1, he has deposed that the police filed 'B' Final report and his mother gave the said amount to buy cattle feed and groceries which falsely implicated him and in the cross examination, the learned counsel for the petitioner has contended that at the time of seizure, there was bill found along with the brother of respondent No.1 and subsequently, they manipulated the facts in order to overcome the amount carried in the car. It is also suggested by the Senior Counsel and there was an admission made by R.W.1 that the car belongs to his father and the same was used by escort belongs to his

father and admitted the amount was seized from the car, but he says, it is an income tax department planted the case and also says that the cash belongs to his mother and it was given for purchasing the groceries and cattle feed and in order to prove the said contention the respondent not examined his mother Bhavani Revanna or his brother and not produced the 'B' Final report. Even if 'B' final report filed by the police, as the respondent family was ruling political party in Karnataka at that time, there is possibility of influencing the police for filing the 'B' final report is not ruled out. Therefore, once registering the FIR and seizure of Rs.1,20,000/- has been admitted, it should be presumed that the amount was sent by the respondent for distributing to the voters and in spite of the model Code of Conduct of Election was in force, the question of carrying Rs.1,20,000/- by the respondent family for the purpose of purchasing the groceries cannot be acceptable. Thereby, the petitioner is successful in proving the corrupt practice of the

respondent in the said election. Hence, answered this point in the **AFFIRMATIVE** in favour of the petitioner.

75. Regarding another corrupt practice alleged by the petitioner and regarding religious appeal by the respondent as per Section 123(3) of the R.P. Act:

76. Section 123(3) of the R.P. Act defines that the appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the National Flag or the National Emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

77. The petitioner has stated that prior to the election on 12.04.2019, respondent No.1 campaigned at

Halli Mysuru village and assured that the Veerashaiva Lingayath Community people by promising to build Samudaya Bhavana if they voted to him in the election. A complaint has been registered in Crime No.41/2019 and FIR has been produced and marked as per Ex.P.20. The evidence of P.W.1-Devarajegowda has been corroborated with Ex.P.20 - FIR was registered by the Halli Mysuru police. During the cross examination, learned Senior Counsel for respondent No.1 denied the same. Except denial, nothing elicited to disbelieve the evidence of P.W.1 that during the election campaign, respondent No.1 assured the Veerashaiva Community people to construct a Samudaya Bhavana for them, if they voted to him. Thereby, the petitioner proves that respondent No.1 himself made an appeal to the community people assuring to build a Samudaya Bhavana for them, if they voted to him, which definitely affects the opposite candidate and those people might have voted for the respondent. Hence, the point in respect of Section 123(3) of the R.P. Act has been

proved by the petitioner and answered in the
AFFIRMATIVE.

78. Another corrupt practice alleged by the petitioner is that, there were two cases registered by Hirisave police against respondent No.1 in Crime Nos.24/2019 and 26/2019 for having seized two KSRTC buses and a car which were carrying the printed pamphlets of the respondent. The said documents are marked at Exs.P.21 and P.22. For that, respondent No.1 has only denied in the cross examination. However, registering the FIR against respondent No.1 for having carried the bundles of pamphlets in the KSRTC buses and in a car are not in dispute. Respondent No.1 has stated in his evidence that FIR was not registered against him and it was registered against some other person. But, the fact remains that those two buses carried 15 bundles of 25,000 pamphlets without permission of the Election Commission of India. R.W.1-respondent has admitted

the registration of the FIR for having carried the pamphlets, but he says that he is not the accused in that case. He has stated that the police have filed B-final report in those two cases. Learned counsel for the petitioner has contended that the father of respondent No.1 was the District In-charge Minister for Hassan, and, with influence, those cases were closed by filing the B-final report and there is even chances of influencing the police was not ruled out since at that time, JDS was ruling party and H.D. Kumaraswamy, the uncle of the respondent No.1 was Chief Minister and his father was District In-charge Minister. Thereby, the petitioner is successful in proving that the government vehicles were used for transporting the election pamphlets without prior permission, which attracts the corrupt practice under Section 123(5) of the R.P. Act.

79. Another corrupt practice alleged by the petitioner in respect of Section 123(8) of the R.P. Act, which defines the booth capturing by a candidate or his

agent or other person within the meaning of Section 35A of the R.P. Act. In order to prove the said contention, the petitioner himself is examined as P.W.1 and he has stated that on the day of polling, the father of respondent No.1 went inside the polling booth No.244 at Paduvalahippe village along with the mother of respondent No.1. They took some non-voters from various other parts of the district and made them to vote in favour of respondent No.1. The agent of the petitioner objected the same, but the officers deputed for the said booth have not taken any action. Hence, a complaint was lodged to the Deputy Commissioner. Accordingly, three officers were suspended by the Deputy Commissioner. P.W.1 further deposed that the father of respondent went inside the polling booth in the morning at 10.47 a.m. and was stayed for long time till 11.22 a.m. The CCTV footage also revealed that the respondent's father with his followers went inside the polling booth and got voted for respondent No.1 through many persons. The petitioner has also deposed

that one Sharath Gowda and his wife Lepakshi voted in the said booth, but they are not the voters of the said booth and they are from Mysuru. One Mahesh, Bhavani Revanna's car driver also voted, who was not the voter of the said booth. His name was mentioned in booth No.212 at Kyathahalli village, but he has voted in booth No.244. In this regard, P.W.1 produced and marked M.Os.1 to 3, the DVDs and hard disk. The learned counsel for respondent No.1 denied that there was no such booth capturing took place and the respondent's father went to the booth and voted and came out, which was denied by P.W.1. It is not in dispute that the respondent and his family members including the parents and grand parents came and casted their vote in the said booth. To prove the said contention, the petitioner also marked Exs.P.19 and 19A which is the suspension order passed by the Deputy commissioner by suspending the electoral officials deputed to the said booth. Subsequently, they have been reinstated, but, the fact remains that there was entry of the

respondent's father and family members, and almost the father of respondent No.1 stayed for one hour in the polling booth and more number of persons voted, at their instructions. A person by name Purushotham, belongs to respondent No.1, who was wearing blue shirt, was holding many voter I.D. cards and giving the same to some persons to caste their votes. The DVD produced by P.W.1 has been played and verified the veracity of the contention of the petitioner which reveals that the family of respondent No.1, especially, H.D. Revanna and his wife gone into the polling booth and in spite of casting their votes, they have not came out. On the other hand, at the instructions of H.D.Revanna, another person holding some voter I.D. cards was handing over the same to some other persons and in turn, they were casting the votes. It appears that those persons were not the actual voters of the said booth and I.D. cards in the custody of the said Purushotham, the party man of respondent No.1 was giving the cards for casting the votes, which

reveals that those persons who casted votes were all proxy voters.

80. The petitioner has also produced the voters list of the Paduvalahippe booth and those persons were not holding the list. The video clipping of polling booth No.244 was viewed through the desktop computer which reveals that Smt. Bhavani Revanna, after casting her votes, gone out of the polling booth and after some time, once again she came back to the polling booth along with a child and the other people belong to respondent No.1 were stayed in the polling booth. At that time, there was no public were allowed inside for casting the votes, which reveals that the father of respondent No.1 H.D. Revanna captured booth No.244 for almost a hour and casted proxy votes through his henchmen. The CCTV footage also clearly reveals the same. P.W.19-Deputy Commissioner, Hassan District, produced M.Os.1 to 3 along with the certificate under Section 65-B of Indian Evidence Act and the certificate

is marked as Ex.P.53. Except denial, nothing has been elicited by the respondent's counsel to disbelieve the evidence of P.W.19 in respect of producing and marking the M.Os.1 to 3 and Ex.P.53, which clearly corroborates the evidence of P.W.1 that the father of respondent No.1 captured the booth for more than a hour and casted the proxy votes and that was also proved by suspending three electoral officials by the Deputy Commissioner.

81. The petitioner examined P.W.15-Yogisha, who is the Selection Grade Lecturer working in Government Polytechnic, was deputed as the Presiding Officer to booth No.244 at Paduvalahippe in Hassan constituency, on 18.04.2019. According to him, more than 1100 voters casted their votes and there were surveillance camera installed in the polling booth. On 25.04.2019, he received a notice from the Deputy Commissioner on the complaint made by one Mayanna and Raju against the officials posted in booth No.244

and they gave reply on 26.04.2019. On 27.04.2019, the suspension order was issued by the Deputy Commissioner and he identified the suspension order as per Ex.P.19. In the cross examination, P.W.15 has admitted that the suspension order was revoked by the Deputy Commissioner on 29.11.2021 as per Ex.R.4.

82. To corroborate the evidence of P.W.1-petitioner and P.W.15 Yogisha, the petitioner also examined P.W.14- Mayanna, an election agent of BJP Candidate. P.W.14 also deposed that, on 18.04.2019, he worked as an election agent in booth No.244 at paduvalahippe village along with one Rajugowda. P.W.14 has also deposed that at about 10.15 a.m., he received a phone call from one Rajugowda, that, the then Minister H.D. Revanna along with his followers brought the outside people and casted votes. Accordingly, he went there and found the said Minister was in the booth and the gunman was stood outside, the police and the gunman did not allow him to enter

into the booth. After showing the agent pass and agitated about the proxy votes, there was altercation between them and thereafter, he telephoned to Tahsildar and obtained permission. Then, he went inside the booth where he found that then Minister. The 25 followers were standing in the queue and casting the proxy votes in favour of respondent No.1, even though, they did not have votes in the said booth and then, he shouted at them. According to his evidence, more than 50 proxy votes casted. Then, he went to the Assistant Returning Officer in order to file complaint and the said officer did not take any action. Therefore, on the next day, he lodged a complaint to the Deputy Commissioner and the Deputy Commissioner, after verifying the CCTV footage and the finding *prima facie* material in the allegation, suspended those officials. He has produced and marked Ex.P.19-the suspension order. During cross examination, it was suggested to P.W.14 that he has not lodged the complaint on the same day, but he has lodged the complaint only on 24.04.2019 and the

suggestion was also made that there was no such incident took place, but the witness denied both the suggestions.

83. The evidence of P.Ws.1, 14 and 15, the documents at Ex.P.19 and M.Os.1 to 3, the petitioner is successful in proving respondent No.1 has committed the corrupt practice through his father and family members, captured the booth and got casted the proxy votes in his favour by bringing non-voters to the booth, thereby the petitioner proved the allegation made in the petition as per Section 123(8) of the R.P. Act beyond doubt.

84. The learned Senior Counsel for the petitioner has also argued that respondent No.1 engaged a 13 year young boy as their agent and used for the election purpose and to work as volunteer to bring the aged persons. It is argued that the children must not have been used by the respondent and the

said child was one of the party members of the respondent.

85. **The corrupt practice alleged in respect of Section 123(7) of the of the R.P. Act:**

The petitioner has also taken another contention that the respondent No.1 used the officials for aiding and abetting, by influencing for booth capture, which is also a corrupt practice under Section 123(7) of the R.P. Act. It is also contended that the respondent No.1 used the car belonging to the government and the government officials, escorts and their cars were used for election purpose and thereby, committed the corrupt practice.

86. The proviso of Sub-Section (7) to Section 123 of The R.P. Act referred below for convenience:

" The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person 11[with the consent of a candidate or his election agent], any assistance (other than

the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government and belonging to any of the following classes, namely:—

- (a) gazetted officers;*
- (b) stipendiary judges and magistrates;*
- (c) members of the armed forces of the Union;*
- (d) members of the police forces;*
- (e) excise officers; 13[(f) revenue officers other than village revenue officers known as lambardars, malguzars, patels, deshmukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and]*
- (g) such other class of persons in the service of the Government as may be prescribed: 14[Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for,*

to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.] 15[8) Booth capturing by a candidate or his agent or other person.] Explanation.—(1) In this Section the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate."

87. The learned Senior Counsel for petitioner has also relied upon the Ex.P19 and the evidence of PW14 and 15 that the respondent father by misusing official position as District In-charge minister captured the polling booth No.244 and casted their votes with assistance of the PW15 and two other Government officials by his influence. who were deputed for election purpose in favour of his son, thereby he has utilized the

government officials that was proved by the petitioner in respect of 123(8) of RP Act, in the above said issue.

88. It is also an admitted fact that the FIR was registered against the brother of respondent No.1 Suraj Revanna at Holenarsipura police station and cash of Rs.1,20,000/- was seized from the escort car belonging to his father which is official vehicle and the police officials were used by the father of the respondent No.1 H.D. Revanna in order to circulate the cash among the voters to vote in favour of respondent No.1 apart from that the KSRTC bus also used for transporting the pamphlets on behalf of the respondent which was seized by the Hirisave police and registered two cases which also once again using the public servants/government officials and government vehicle's in favour of the election campaign. There is nothing to disbelieve the evidence of petitioner witnesses in respect of allegation made against the respondent and his family has misused the official position as district In-

charge minister as the father of the respondent No.1 and his uncle chief minister of the State at the relevant time and the grand father of the respondent was former Prime Minister of the nation were all influenced persons and except H.D. Kumaraswamy the family of H.D.Revanna including his wife, sister-in-law, the respondent, his friends, his grand parents and relatives polling agent were all stayed together in the polling booth for hours together. It is unfortunate, the officials of the polling booth were afraid of the In-charge Minister and the ruling party at the time for sending them out from the polling booth and he has succumbed to the pressure and influence of the respondent family. Thereby the petitioner is successful in proving the corrupt practice under Section 123(7) of R.P. Act. In view of the above findings the petitioner is successful in proving the Issue No.5 that the respondent No.1 involved in corrupt practice of bribery as contemplated under Sections 123 of R.P. Act. Hence, answered the

Issue No.5, Partly In AFFIRMATIVE, in favour of the petitioner and against the respondent No.1.

89. **Issue No.4 in E.P.No.1/2019:**

Whether the petitioner proves that it is mandatory for the candidate contesting in an election to the parliament to show his source of income ?

The petitioner has contended the candidate who contest the parliamentary election to show his source of income, in this regard, the petitioner himself examined as PW.1 and contended that the respondent No.1 purchased huge landed properties nearby Nelamanagala Taluk by paying crores of rupees but he has not shown any source of income. On the other hand, the respondent has stated he has borrowed loan from his parents and other third parties which were declared in the nomination form but the respondent No.1 not declared the same in the Income Tax Returns for last 5 years. Though he has purchased properties from 2008 onwards and received various bills through the banks

but he has not declared his income in the Income Tax Returns and he has not at all filed any Income Tax Returns till 2017. He has filed ITR for only one year prior to filing of the nomination and this Court has found various incomes but it was not declared, there were discrepancies in the borrowing loan from third parties and he has involved in corrupt practice. The very acceptance of nomination by the Returning Officer is illegal and improper. It is the duty of the candidate who is contesting the election shall declare his sources of income assets and liabilities in order to choose the candidate by the voters. Therefore, it is mandatory on the part of the candidate to show his source of income, but the respondent failed to show his any source of income which mislead the voters, thereby I answered **Issue No.4** in E.P.No.1/2019 in the **AFFIRMATIVE** in favour of the petitioner as against respondent No.1.

90. **Issue No.9 in E.P. No.1/2019**

Whether respondent No.1 proves that non disclosure or non filing of IT returns for five

years as required under clause 4(1) in Form No.26 does not violate Section 33A of the RP Act read with Rule 4A of Conduct of Election Rules together with Form No.26 as appended to the Conduct of Election Rules, 1961?

and

Issue No.2 in E.P.No.2/2019

Whether the petitioner proves that the nomination of respondent No.1 in form No.26 enclosed along with the nomination is in contravention of Section 33 A of R.P. Act and Rule 4A of Conduct of Election Rules ?

Both the above issues are common issues, hence, taken together for discussion in order to avoid the repetitions.

91. The provision of Section 33 A of R.P. Act defines as under:

[33A. Right to information.—(1) A candidate shall, apart from any information which he is required to furnish, under this Act or the rules made thereunder, in his nomination paper delivered under sub-Section (1) of Section 33, also furnish the information as to whether—

(i) he is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction;

(ii) he has been convicted of an offence [other than any offence referred to in sub-Section (1) or sub-Section (2), or covered in sub-Section (3), of Section 8] and sentenced to imprisonment for one year or more.

(2) The candidate or his proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under sub-Section (1) of Section 33, also deliver to him an affidavit sworn by the candidate in a prescribed form verifying the information specified in sub-Section (1).

(3) The returning officer shall, as soon as may be after the furnishing of information to him under sub-Section (1), display the aforesaid information by affixing a copy of the affidavit, delivered under sub-Section (2), at a conspicuous place at his office for the information of the electors relating to a

constituency for which the nomination paper is delivered.]

92. As per Rule 4A of the conduct of Election Rules defines as under:

"4A Form of affidavit to be filed at the time of delivering nomination paper - the candidate or his proposal, as the case may be, shall, at the time of delivering to the returning officer, the nomination paper under Sub-section (1) of 33 of the Act, also delivered to him an affidavit sworn by the candidate before the Magistrate of the First Class or Notary in Form No.26".

93. In this regard, the learned counsel for the petitioner has contended that it is the duty of the candidate who contest for the election shall mention all the information to the Returning Officer in the affidavit and in turn, it should be published to the public domain in order to the voters to excise their voting right in favour of the candidate. But here in this case, the respondent No.1 not furnished the entire details of his

assets and liabilities, investments including the bank balances and most of the information given by him were wrong information. Therefore, it is held, the information submitted by respondent No.1 in Form No.26 is in contravention of Section 33A of R.P. Act and Rule 4A of the Conduct of Election Rules, 1961. Hence, answered **Issue No.9** in E.P.No.1/2019 and **Issue No.2** in E.P.No.2/2019 in the **AFFIRMATIVE** in favour of the petitioners.

94. **Issue No.10 in E.P.No.2/2019**

Whether the petitioner proves the election expenses incurred by respondent No.1 was beyond the limit fixed as stated in paragraph Nos.21 and 27 of the Election Petition?

In order to prove the said allegation, the petitioner in E.P.No.2/2019 has contended the respondent has incurred more than Rs.1,40,000/- towards printing the pamphlets more than 25,000 in his favour when the said pamphlets were transported in two KSRTC buses and a car which were seized by the

Hirisave Police and registered two Crime cases Nos.24/2019 and 26/2019 and seized more than 15 bundles of pamphlets. In order to prove the said contention, the petitioner has produced and marked Exs.P.21 and P.22. PW.1-the petitioner in the cross examination, except denial, the learned counsel for the respondent nothing elicited to disbelieve the evidence. On the other hand, the respondent himself examined as R.W.1 and he has deposed that he is not aware about seizing of 15 bundles of pamphlets in K.S.R.T.C. buses and FIR was registered against some other persons and he is not the accused in the said cases and the suggestion was made to R.W.1 that after winning the election, they influenced the police and got filed the 'B' Final report.

95. On perusal of Exs.P.21 and P.22 reveals that the Hirisave Police registered two FIRs and seized 15 and 11 bundles containing 25,000 pamphlets for transporting the pamphlets pertaining to this

respondent and admittedly, this respondent name was not there in the FIR, but the President of JDS Party, Hassan was the accused and the said pamphlet was printed for the purpose of election campaigning of the respondent. Therefore, this amount of Rs.1,40,000/- should be considered as his election expenditures. But the same was not properly declared by him in his election expenditure account to the Election Commission of India in the Ex.P.23 produced by the petitioner and Ex.R.32 marked by the respondent.

96. The petitioners have also deposed that the respondent declared the expenditure of pamphlets, posters, hand bills and banners that he has spent Rs.5,78,310/- whereas, the value of the pamphlets seized by the Police in the Bus itself is Rs.6,50,000/- and Rs.3,00,000/-. The voters slip would cost Rs.3,00,000/- but the same was not properly declared by the respondent. As already held above, the expenditures for hand bills or the pamphlets seized

from two KSRTC buses and the car, more than 25,000 pamphlets, the expenditure were not declared and the voters slips supplied by the respondent near the polling booth also not properly calculated apart from the other amenities used for polling day. Therefore, in this regard, there is no proper evidence adduced by the respondent for spending the meager amount declared by him.

97. As regards to the expenditure incurred by the respondent towards the **Helicopter** charges for doing election campaign through star campaigners where the respondent has spent huge amount for the purpose of rent paid for visit of former Prime Minister Sri H.D. Devegowda and the then former Chief Minister Sri Siddaramaiah who came to Arasikere, Arakalagud and Hallimysuru on 11.04.2019. The respondent not included the rent and expenditures in the expenditure account in Ex.R.32. In order to prove the said contention, the petitioner has examined himself as

witness and got marked at Ex.P.23 wherein the summary report regarding expenses accounted by the candidate. Wherein, the respondent has shown the expenditures as Rs.63,14,197/- . The abstract of the expenditures declared by respondent No.2 where the Helicopter expenditures were shown as NIL. Whereas the petitioner has produced documents and deposed that the respondent has spent more than Rs.14,00,000/- towards the Helicopter expenses and the respondent also got marked as Exs.R.33 and 34 that the list of star campaigners in JDS party as well as Congress party.

98. PW.1 further deposed that the then Chief Minister Sri.H.D.Kumarswamy, his wife Smt.Anitha Kumaraswamy and their son Sri.Nikhil Kumaraswamy have visited Holenarasipura by Helicopter and the said amount was not declared by the respondent and also contended that the former Prime Minister and Chief Minister's helicopter expenses is also

not declared by him. In response to the allegation, the respondent examined and he has stated in his evidence that he is not aware about declaring the list of leaders as star campaigners in both the political alliance of the JDS and Congress and denied that the former Chief Minister Sri H.D.Kumaraswamy was not at all came for campaigning but it was their private visit and therefore, not necessary. But the respondent admitted that he has obtained the permission of the Deputy Commissioner for landing of Helicopter to Kadur Town where the Former Prime Minister Sri H.D. Devegowda and the then former Chief Minister Sri Siddaramaiah campaigned at Kadur and he has stated, they are the star campaigners and therefore, as per Schedule 1 in Sl.No.11, the expenditures of Star campaigners not required to be declared. But in Ex.R.32(a), the respondent has stated the expenditures on star campaigners by Helicopter mentioned as NIL. Though, RW.1 further stated the helicopter came to Kadur, but while going back to Hassan, the helicopter was stopped at Gandsi due to

bad weather and they went by car and he also admitted that he has obtained the permission for landing of the helicopter at Holenarasipura and Arasikere and denied that helicopter expenditures was Rs.17,40,000/-. But the fact remains, as per Ex.R.32(a), the abstract of the expenditures, the respondent has shown, there is no amount spent on the helicopter for star campaigners. The respondent also not stated what was the actual amount spent for helicopter expenditures for star campaigning. Exs.R.35 and R.35(a) are the permission accorded by the Deputy Commissioner for landing of helicopter. But not a single document produced by the respondent that he has spent amount towards the helicopter rent and he is entitled for exemption in respect of said helicopter expenditure. Thereby, the petitioner is successful in proving that the respondent not declared the helicopter expenses of more than Rs.17,00,000/- in his Ex.P.23 or Ex.R.32 (both the documents are one and the same).

99. The petitioner also stated that the respondent has shown the expenditure for food, refreshment, tea, juices etc., as Rs.42,950/- but the respondent actually spent more than Rs.13,41,000/- towards the expenditure as respondent No.1 conducted large scale election campaign. Two election campaigns which comes under 8 Legislative constituency of Hassan Lok Sabha constituency and spent Rs.15 to 16 lakhs per campaign for distribution of Milk, food and LED expenditures including pendals, chairs etc., But the respondent declared meager amount. Though the respondent has stated that Rs.42,950/- spent on refreshment, but there is no document produced before the Court as breakup wise expenditures spent by him for the purpose of two star campaigning large scale meetings, the expenditure cannot be Rs.42,000/-, it must be more than lakhs of rupees. Therefore, I hold, the respondent has not properly declared the expenditures spent on food and refreshments.

100. The next contention of the petitioners are that the respondent declared expenditures on vehicles as Rs.12,60,860/- for engaging the auto rickshaw, cars, Bolero jeeps for campaigning as per Schedule 5 in Ex.R.32. Whereas the petitioner has contended that the respondent has spent more than Rs.15,45,875/- towards the vehicle expenditures, but it was suppressed by the respondent and stated that the Deputy Commissioner himself has declared the rate fixed for the different vehicles in different rates, but the respondent has found very meager amount per day for a vehicle, thereby, he has not properly declared the actual expenditures. Learned counsel for the petitioner has stated that the Deputy Commissioner as per the Notification No.ELN(1)100/2018-19 has fixed Rs.5,000/- per day for Innova vehicle and for different categories of vehicle, different rates were fixed as minimum rental rates. But the respondent used 34 different types of cars along with 57 three wheeler auto rickshaws. On calculation, it comes, the respondent has

spent more than Rs.19,90,000/- but he has declared only Rs.11,32,000/- thereby, more than Rs.8,57,000/- differs from actual expenditures. Though, the respondent has produced the Notification issued by the Deputy Commissioner, but there is no authenticated document produced by the respondent, however, the expenditure mentioned by the petitioner in Schedule 5 of expenditure is not correct and no auto rickshaw or taxi persons provided their vehicles less than the amount fixed by the Deputy Commissioner, therefore, I am of the view, that the petitioner proves the vehicle expenditures declared by the respondent was not correct.

101. The another contention of the petitioner is that the respondent has spent more than Rs.22,00,000/- towards the polling booth, agent expenses and Rs.56,000/- towards the counting day expenses. It is contended by the petitioner that the respondent declared the expenditures towards the said

expenditure as NIL, but in fact, the respondent has shown and declared Rs.96,000/- towards the candidates booth set up for distribution of voters slip for voters for Rs.90,000/-, food expenses Rs.6,000/-. Whereas the petitioner has calculated that the amount was more than Rs.22,00,000/- as there were 2,235 booths and if 2 persons per booth, if they paid Rs.500/- per head, it comes to Rs.22,35,000/- and even if the expenditure for food and other expenditures considered for two booth agents and it would be Rs.56,000/-. Though the respondent declared Rs.96,000/- but there is no proper accounts to that effect and no evidence adduced by the respondent before this Court and even, if a person received Rs.200/- per head, it could be more than Rs.4,47,000/- and counting agents for 8 round tables, there must be at least Rs.25,000/- but the respondent declaring Rs.96,000/- is very meager and the said expenditures declared by him appears to be not correct.

102. As regards to the other expenditures spent by the respondent regarding amount spent on advertisement through newspapers and T.V. channels, the petitioner has contended that the respondent not declared any amount spent by him towards the advertisement in the News channels both print and electronic media. Whereas the petitioner has contended that the respondent given advertisement in Praja Vani Newspaper and spent Rs.50,000/- as per Exs.P.54 and P.55, towards the Vijaya Karnataka Newspaper he has spent Rs.89,250/- as per Exs.P.56 and P.58, towards Vijaya Vani Newspaper, he has spent Rs.1,14,07,290/- as per Ex.P.62, a bill for Rs.51,08,784/- and another bill as per Ex.P.62(a) for Rs.62,48,756/- and as per Ex.P.62(b) was Rs.10,49,750/-, towards the Kannada Prabha Newspaper Rs.6,75,001/- as per Exs.P.63 and P.64(a) and P.64(c), but the respondent not declared the same. The respondent has stated in Schedule 4 of Ex.R.32 that no amount spent on the advertisement, whereas,

the petitioner to prove its contention examined and deposed in the evidence that advertisements were given by the respondent and spent more than crores of rupees towards the advertisement on Newspapers. In support of his contention, the petitioner summoned the PWs.20, 21, 22 and 23.

103. The PW.20-Nataraj Dodmani who is legal executive in Prajavani Kannada daily news he has summoned and produced the documents Ex.p4, the advertisement given by the respondent No.1 which was published in page No.7B of Ex.P54(a) and the bill issued by them to the JDS Party is marked at Ex.p55. Accordingly to his evidence an amount of Rs.50000/- charged by them for the advertisement. In the cross examination he has admitted that the said paper was published by enlarging the hand bill of JDS and requisition might have received by his office and he has to verify the office that any authorisization issued by

the respondent No.1 for giving advertisement in the said paper.

104. PW21- Logan a Dy.Manager of Vijay Karnataka also deposed that on 16.4.2019 an advertisement was given by the respondent JDS which was published as per Ex.p56 and P56A, The certificate issued by their office is P57 and P58 is advertisement release order and they have charged Rs.44625/- towards the advertisement charges and in the cross examination it is suggested the handbill was enlarged in the newspaper and he is not aware that who has actually placed order to the Bhoomika Advertisement agency.

105. PW22:K.N.Channegowda, the editor of VRL Media i.e, Vijayvani Kannada news paper accordingly to his evidence there was news published in their paper on 06.04.2019, 15.4.2019 and 18.4.2019 as per the paper cuttings P59 to P61. They charged Rs.51,08,784/- and they raised the bill/invoice as per Ex.P62 and further

submits the advertisement was placed through Maddgen Technologies Pvt. Ltd. which is an advertisement agency and in the cross examination this witness has stated they have not mentioned the name of the person on behalf of whom the advertisement were given and deny the suggestions that they created the documents and also admits there is no photographs of the respondent in the paper advertisement and the respondent No.1/Prajwal Revanna not given the said advertisement and the said publication was published throughout Karnataka including Hassan district.

106. PW23 - Mallikarjunaiah Editor of Kannada Prabha he has deposed that there was advertisement on 16.4.2019 by Janata Dal S and Ex.P63 is a newspaper and they charged Rs.45000/- and they charged totally Rs.59,000/- including the other expenditures. The invoice is marked as Ex.P64 and in the cross examination it is suggested the paper was not the actual advertisement, it is enlargement of hand bill

and format separate by the JDS, this witness also stated the respondent No.1 not given any consent or placed order for advertisement.

107. On perusal of the evidence of these 4 witnesses PW20 to PW23 the respondent political party given the advertisement on behalf of the respondent by spending lakhs of rupees as per the Ex.P54 to 64 but the respondent denied the same and he is not aware about the issuing of the advertisement and the amount could have paid by the JDS party in support of his contention the respondent not adduced any evidence on his behalf to show the amount was not paid by him and some other person given advertisement but no documents produced by the respondent to show these advertisement were given by some one else without his knowledge. The respondent counsel stated in the cross examination that the advertisement appeared in the news paper were enlargement of the hand bill but not denied the advertisement published in the various

newspaper on behalf of the JDS on vote for the JDS candidates. Therefore, the petitioner successfully proving the allegation that the respondent spent more than a crore rupees on paper advertisement but not declared in Ex.P23 or R32.

108. As regards to the amount spent by the respondent by own fund for Rs.15,05,000/-, his party had spent Rs.40,00,000/- and his father spent Rs.14,00,000/- these 3 amounts were reflected in the bank account extract of the respondent which was open for election expenditures. He has declared in Part 3 of the expenditures Ex.R.32 which was shown in the Schedule 9. Though the respondent No.1 has contended he has spent Rs.15,05,000/- by his own fund and Rs.40,00,000/- spent by his party and Rs.14,00,000/- by his father were all subsequent to the election and he has declared in the election expenditure. It is not necessary to discuss much, it has to be looked into by the Election Commission of India

and the Income Tax Authorities whether he has declared in his Income Tax Returns after the concerned years.

109. Accordingly, I hold the petitioner has proved that the expenditure limit was fixed by the Election Commission of India was Rs.70,00,000/- whereas the respondent spent more than crores of rupees than Rs.70,00,000/- but he has declared only Rs.63,00,000/- hence answered the **Issue No.10** in the **AFFIRMATIVE** in favour of the petitioner and against the respondent.

110. **Issue No.7 in E.P.No.1/2019**

Whether the petitioner proves that the acceptance of the nomination papers of the respondent No.1 by the Returning Officer is improper?

and

Issue No.1 in E.P.No.2/2019

Whether the petitioner proves that the acceptance of the nomination of respondent No.1 by the Returning Officer is illegal?

Both the above issues are common in both petitions, hence, taken together for discussing in order to avoid repetitions.

111. The petitioner also contended that the amounts mentioned in the Form No.26 regarding ownership of the property, Assets and Liabilities which are patently erroneous and amounts to defect of substantial character and nomination should have been rejected. Learned Senior Counsel for the petitioner submitted even though the petitioner E.P.No.1/2019 raised objection regarding the false information submitted by respondent No.1 in form No.26 but the Returning Officer without proper verification overruled the objections and accepted the nomination paper.

112. The Income Tax declaration made by the respondent No.1 is for only one year, even though the law requires 5 years past Income Tax returns. The evidence of the respondent No.1 and properties owned by him all reveals that he has huge property which has been purchased by him for last 10 years but he has not paid any Income Tax even though he was having sufficient income and balance amount in his Bank account. But he has evaded tax and paid tax only for one year prior to the filing of the nomination for contesting election. But there were lakhs of rupees transacted by him but he has not filed any income tax returns and paid any income tax to the State. Therefore, the declaration made by the respondent in the form NO.26 is not correct information and all false statement regarding assets and liabilities, income etc.,

113. On perusal of the acceptance of nomination by the Returning Officer the Ex.P3 was the objection raised by the petitioner against the nomination of the

respondent and Ex.P4 is the acceptance of nomination by the Returning Officer. In the Ex.P3 the petitioner/ A.Manju raised the objection in detail regarding investments in Chennambika convention hall, bonds, investment in the firm and he has stated the material information has been not disclosed by the respondent No.1. Therefore, request for rejecting the nomination paper but the Returning Officer failed to consider the objection raised by the petitioners and wrongly accepted the nomination which is against the law, hence, the Senior Counsels for the petitioners have contended that the acceptance of the nomination of the respondent No.1 is liable to be set aside.

114. In this regard, the petitioner counsel produced the hand book manual prescribing the procedure to be followed by the Returning Officer. The respondent counsel has contended that the Returning Officer following the hand book even if the prescribed affidavit not been filed, the nomination paper should not

be rejected on that ground. On this background, it is worth to mention that the guidelines issued by the Election Commission of India in Hand Book for Returning Officer prescribes the grounds for rejection of nomination paper at 6.10.(IV) as under:

"6.10(IV): The prescribed affidavit has not been filed at all by the candidate, or (NB if the prescribed affidavit has been filed but are alleged or found to be defective or containing false information, the nomination should not be rejection on this ground."

115. On perusal of the said guidelines, of course, the Returning Officer may not have sufficient time for verifying all those objections made by the petitioner against the affidavit filed by the respondent at the time of scrutiny but as per the guidelines, he has formally accepted the nomination and now it is under scrutiny by this Court.

116. In view of my findings against the respondent No.1 in respect of Issue No.2 in E.P.No.2/2019 that the respondent No.1 filed the nomination paper and its enclosures in contravention to Section 33 A of the R.P. Act and Rule 4A of the Conduct Rules and the respondent No.1 involved in corrupt practices in misusing the official position diverting the CNNL Funds and other corrupt practices has been proved by the petitioners and wrong declarations suppressing the material facts, non filing the income taxes, not declaring the proper income, assets and liabilities and non disclosure of his income from the Chennambika Convention Hall, amount spent on construction on Chennambika Convention Hall, partner in the said Chennambika Convention Hall, profit from the Chennambika Convention Hall, it was brought to the notice by the petitioner in E.P.No.1/2019 by way of objection, but the Returning Officer / Deputy Commissioner accepted the nomination of the respondent No.1 is improper and illegal, thereby the

nomination paper of the respondent No.1 ought to have rejected by the Returning Officer, but it is not done by the Returning Officer and the petitioner were successful in proving the fact and the affidavit Form No.26 of the respondent No.1 is not in accordance with law. Therefore, the acceptance of the nomination is liable to be set aside. Accordingly, I answered **Issue No.7** in E.P.No.1/2019 and **Issue No.1** in E.P.No.2/2019 in the **AFFIRMATIVE** in favour of the petitioners and against respondent No.1.

117. Issue No.11 in E.P.No.2/2019

Whether the petitioner proves that the discrepancies in the information given by the respondent No.1 is a corrupt practice and the same has affected the free exercise of courts by the voters?

In view of my findings in respect of Issue Nos.1, 2 and 5 against the respondent that the nomination of the respondent is in contravention of the Section 33 of the R.P. Act, non disclosure of material facts required to be

mentioned in Form No.26 which amounts to violation of Sections 33 to 36 and 100 of R.P. Act and the information given by the respondent regarding various defects like assets and liabilities, bank accounts, details of sources of income etc. in the affidavit Form No.26 and not giving proper information to the voters in order to know about their candidates for voting or for free exercise of votes by the voters.

118. The learned counsel for the petitioner in E.P.No.1/2019 relied upon the judgment of Hon'ble Supreme Court in the case of **KRISHNAMURTHY Vs. SHIVAKUMAR AND OTHERS** reported in **(2015) 3 SCC 467**, the Hon'ble Supreme Court has held that concealment or suppression of fact regarding criminal cases and non disclosure of material facts will create an impediment in the free exercise of electorate. Non disclosure of the fact amounts to undue influence and therefore, election is to be declared as null and void.

119. The learned counsel also relied upon the judgment of Hon'ble Supreme Court in the case of **LOKPRAHARI THROUGH GENERAL SECRETARY S.N.SUKLA Vs. UNION OF INDIA AND OTHERS** reported in **(2018) 4 SCC 699**, the Hon'ble Supreme Court has held the contesting candidate shall furnish the information regarding sources of income and their associates which would help the voters to make informed choice and hence, is a part of fundamental right which required to be informed under Form No.26. The non disclosure of assets and sources of income of candidates and their associates which constitute corrupt practice amounting to undue influence since it is attempt to suppress, misguide and keep people in the dark.

120. In another judgment in the case of **KISAN SHANKAR KATHORI Vs. ARUN DATTATREY SAWANTH AND OTHERS** reported in **(2014) 14 SCC 162**, the Hon'ble Supreme Court also held article

19(1a) of the Constitution of India, the voters right to know assets and liabilities of contesting candidate and non disclosure in respect of share in the firm is serious and major lapse. The affidavit given by the candidates in the Nomination form, material information about the assets was not disclosed, the election of the candidate has to be set aside.

121. Learned counsel for the petitioner in E.P.No.2/2019 also relied upon the same judgments of the Hon'ble Supreme Court. Here in this case, the petitioner not disclosed the all assets and liabilities evading the income tax, borrowing loans, income from the Chennambika Convention Hall, expenditure on the construction, market values on the assets of landed properties were all not properly discloses. Balance in the bank account also not disclosed were all a corrupt practice and not informed the true facts to the voters to exercise their votes, thereby, the voters were kept in dark and which was affected exercising of their votes in

favour of the petitioner. Hence, answered Issue No.11 in **AFFIRMATIVE** in favour of the petitioner and against the respondent No.1.

122. Issue No.11 in E.P.No.1/2019

Whether the petitioner proves that respondent No.1 has suppressed the true income, assets and liabilities in Form No.26 which violates Section 33 A of the R.P. Act and Rule 4A of Conduct of Election Rules and furnished false information which amounts to the corrupt practice in terms of Section 123 of the R.P. Act, thereby election of respondent No.1 of Hassan (General Parliamentary Constituency) and result declared on 23.5.2019 is held to be void under Section 98 and Section 100(1)(d)(i) of R.P. Act?

and

Issue No.6 in E.P.No.2/2019

Whether the petitioner proves that non disclosure of material required in Form No.26 as contemplated in the

guidelines issued by Election Commission in the year 2006 amounts to violation of Sections 33 to 36 and 100(1)(d)(i)(iv) of R.P. Act?

The above said issues in both the cases are similar, hence, taken the same for discussion in order to avoid the repetition. The learned senior counsels for the petitioners in both cases has contended that the respondent No.1 has not disclosed the assets and liabilities, sources of income and in spite of raising objection by the petitioner and before the Returning Officer, the Returning Officer without considering the same, wrongly accepted the nomination of respondent No.1. It is further contended that respondent No.1 also involved in corrupt practices including the proxy voting, suppressing the material facts, furnishing the wrong and incorrect information and violated the Conduct of Election Rules and Section 33A of the R.P. Act, thereby, the election of respondent No.1 shall be declared as void under Section 100(1)(d)(i) and (iv) of R.P. Act.

123. For the convenience, the provisions of Section 100(1)(d)(i) of the R.P. Act are referred as under:

(i) by improper acceptance or any nomination or

(4) by any non compliance with the provisions of Constitution or of this Act or of any Rules or Orders made under this Act.

The High Court shall declare the election of the returning candidate to be void.

124. The petitioners in both the cases are successful in proving the fact that respondent No.1 has not disclosed the real assets and liabilities, the value of the properties, the income from the business of Chennambika Convention Hall. Further, the father of respondent No.1 misused the official position as District In-charge Minister diverting the CNNL fund to various other development projects by taking advantage of the uncle of respondent No.1 - the then Chief Minister, who was the Chairman of CNNL and involved in corrupt

practices including booth capturing, proxy voting, inducing the voters by using the religion and carrying the money for distributing to the voters which was seized by the flying squad, non-declaring the expenditure of election and other various issues against respondent No.1 and also not giving proper information to the voters in order to make the voters to know about the candidates in free exercise of their votes and answering issue Nos.1, 2, 5 and 11 against respondent No.1 in E.P. No.2/2019 and issues proved by the petitioner in E.P.No.1/2019 against the respondent No.1, are all proved by the petitioners by examining the petitioners themselves as witnesses and also examining the income tax officials, bank managers, CNNL Director, and various other witnesses almost 23 witnesses thereby, both the petitioners successfully proved that respondent No.1 violated Section 33A of R.P. Act and involved in corrupt practices and violated the provisions and Rules under this Act. Thereby, the election of respondent No.1 shall be declared as void.

Hence, answered the above **Issue No.11** in E.P. No.1/2019 and **Issue No.6** in E.P. No.2/2019 in the **AFFIRMATIVE** in favour of the petitioner and as against respondent No.1.

125. The learned Senior Counsel appearing for respondent No.1 has relied upon the judgment of the Hon'ble Supreme Court in the case of **MARKIO TADO V. TAKAM SORANG** reported in **(2013)7 SCC 524** wherein the Hon'ble Supreme Court has held that the booth capturing involves the use of force, whereas impersonation or double voting is on the basis of deception and the said ground was not pleaded in the petition nor was any issue framed thereon for trial. But, herein this case, the petitioner in E.P. No.2/2019 has pleaded that the respondent No.1, his father, who was the In-charge Minister of the district, his mother and grand parents were all inside the polling booth and not allowed the public to cast their votes, but taking some proxy voters through a gunman and another

person carrying fake voter I.D. cards, got casted the proxy votes in booth No.244. The same has been pleaded in the petition and in this regard, issue No.5 was framed in E.P.No.2/2019 and the same was proved by the petitioner by examining the witnesses, the Returning Officers, Deputy Commissioner and by producing photographs, C.Ds., hard disc (M.O. Nos.1 to 3) and thereby, this Court has already answered the said issue in favour of the petitioner and against respondent No.1. Therefore, the said contention of the learned Senior Counsel for the respondent, is not acceptable.

126. The learned Senior Counsel for the respondent No.1 also relied upon the judgment of the Hon'ble Supreme Court in the case of **LIFE INSURANCE CORPORATION OF INDIA AND ANOTHER VS. RAMPAL SINGH BISEN** reported in **2010 (4) SCC 491** wherein the Hon'ble Supreme Court has held that mere filing or exhibiting a document in

Court does not amount to proof of its contents, and admission of a document in court may amounts to admission of its contents but not their truth, and further held that the documents having been produced and marked as required under the Evidence Act cannot be relied upon by this Court. The Hon'ble Supreme Court has also held that failure to prove the defence does not amount to an admission and failure to prove the defence does not reverse or discharge the plaintiff's burden of proof. There is no second opinion in respect of the principles laid down by the Hon'ble Supreme Court in the said case. Here, in these cases, the petitioners have pleaded in the petitions about the corrupt practices by respondent No.1, and accepting the nomination of the respondent No.1 was improper and they the petitioners themselves lead the evidence and also examined 22 witnesses and produced the documents and material objects, thereby they are successful in proving the issues framed by this Court.

Therefore, the aforesaid judgment will not come to the aid of respondent No.1.

127. Issue No.3 in E.P. No.2/2019:

"(3) Whether the petitioner proves that as on the date of the election, respondent No.1 was not eligible and qualified to be chosen to fill the seat of No.16 Hassan Parliamentary Constituency?"

The petitioner has contended that as on the date of election, respondent No.1 was not eligible and qualified to be chosen to fill the seat No.16 of Hassan Parliamentary Constituency. This Court already held in issue No.1 against the respondent No.1 that there objection was raised by the petitioner regarding suppression of material fact, non declaration of income tax, not disclosing the assets and liabilities, suppressing the value of the landed properties in the nomination paper. The very acceptance of the nomination by the Returning Officer has held as illegal in issue No.1.

Respondent No.1 purchased the landed properties in the year 2009 by paying the crores of rupees without source of income and evaded the taxes. Though an objection was raised by the contesting candidate-petitioner in E.P.No.1/2019 in this regard, the Returning Officer accepted the nomination paper. Even otherwise, the learned senior counsel for the petitioner has contended that the very nomination paper was not attested and signed by the petitioner in the declaration form and it was kept blank, and also issue No.11 is answered against respondent No.1 and in favour of the petitioner. Even though respondent No.1 was not eligible and qualified to be chosen to fill the Hassan parliamentary constituency. In spite of it, the Returning Officer accepted the nomination. Thereby the petitioner is successful in proving the said issue. Hence, answered **Issue No.3** in E.P.No.2/2019 in the ***AFFIRMATIVE.***

128. **Issue No.4 in E.P. No.2/2019:**

(4) Whether the petitioner proves that the result of the election so far as respondent No.1 is concerned has been materially affected by improper acceptance of his nomination?

The petitioner has contended that the result of the election of respondent No.1 has been materially affected by improper acceptance of his nomination. In this regard, the petitioner lead the evidence as P.W.1 and raised objections regarding the suppression of material facts, wrong disclosure of the assets and liabilities, non payment of taxes, wrong market value declared in the nomination form, not declaring the liabilities as well as income, expenditure and loans and in spite of raising the objection by the contesting candidate petitioner in E.P. No.1/2019, the Returning Officer accepted the nomination paper. This Court has already held issue No.1 in E.P.No.2/2019 and issue No.7 in E.P.No.1/2019 against the respondent No.1. In

view of the illegal acceptance of the nomination of respondent No.1, the result of the election was materially affected. The nomination of respondent No.1 if rejected by the Returning Officer, the petitioner in E.P.No.1/2019 would have been returned candidate in parliamentary Hassan constituency and because of acceptance of the nomination of respondent No.1, the result of the election has been affected. Hence, answered **Issue No.4** in E.P.No.2/2019 in the

AFFIRMATIVE.

129. Issue Nos.8 in E.P. No.2/2019:

"8. Whether the petitioner proves that the votes counted in favour of respondent No.1 should be treated as wasted votes (thrown away votes) and reception of the said votes in favour of respondent No.1 and counting the same is his favour is void?"

The petitioner has contended that in view of accepting the improper nomination of respondent No.1

by the Returning Officer, respondent No.1 involved in corrupt practices like amount carried for distribution of voters, spending huge election expenditures, suppressing material facts, booth capturing, proxy votes. Therefore, these corrupt practices were the cause for getting less votes by the petitioner i.e., A. Manju in E.P.No.1/2019 who is respondent No.2 in E.P. No.2/2019.

130. The petitioner is successful in proving all the issues against respondent No.1 regarding corrupt practices under Section 123 of the R.P. Act and improper acceptance of the nomination of respondent No.1 by the Returning Officer and spending excess expenditure than the limit fixed by the Election Commission of India. Even though the respondent No.1 secured 6,76,606 votes more than 1,40,000 as against the petitioner, who secured 5,35,282 votes, but the votes secured by the respondent No.1 shall be treated as the wasted votes and thrown away votes and the

said secured votes and counting those votes in favour of respondent No.1, is void. Hence, answered issue No.8 in the ***AFFIRMATIVE***.

131. **Issue Nos.7 and 9 in E.P. No.2/2019 and issue Nos. 10 and 12 in E.P. No.1/2019 and**

Recrimination Petition:

Issue No.7 in E.P. No.2/2019

Whether the petitioner proves that the declaration of respondent No.1 as returned candidate is void and whether he further proves that respondent No.2 has to be duly declared as having been duly elected under Section 101 of R.P. Act?

Issue No.9 in E.P. No.2/2019

Whether the petitioner proves that respondent No.2 has secured 5,32,282 number of valid votes and respondent No.2 has to be declared as having been duly elected?

Issue No.10 in E.P. No.1/2019

Whether respondent No.1 proves that the petitioner has also indulged in corrupt

practice by transporting the election materials unauthorisedly without taking permission of the Returning Officer and thereby, many cases were registered by the police and pending before the various Courts in Hassan District?"

Issue No.12 in E.P. No.1/2019

Consequently, whether the petitioner is entitled to be declared as elected in place of respondent No.1 to No.16 Hassan (General Parliamentary Constituency) as enumerated in Section 98(c) of the R.P. Act?

These issues are taken together in order to avoid the repetition.

132. The learned Senior Counsel for the petitioners in both cases strenuously contended that the votes were secured by the respondent No.1 by way of illegal and corrupt practices and it is proved by way of oral and documentary evidence, thereby, the votes secured by the petitioner in E.P. No.1/2019 is to be declared as returned candidate as he has been duly

elected as per Sections 98C and 101 of R.P. Act. Of course, this Court also held and answered the issues against respondent No.1 regarding proving the illegal and improper acceptance of nomination, non disclosure of assets and liabilities, income, avoiding income taxes, spending expenses more than the limit of Rs.70 lakhs prescribed by the Election Commission of India. Therefore, the election of the respondent No.1 should be declared as void and he should be disqualified. However, the question is whether the petitioner shall be declared as a winning candidate of the Hassan Parliamentary Constituency or not?

133. In this regard, respondent No.1 filed a Recrimination Petition in E.P. No.1/2019 under section 97 of R.P. Act contending that the prayer of the petitioner that he shall be declared as the winning candidate by setting aside the result of the respondent No.1 as an elected candidate shall not be allowed. Learned Senior Counsel contended if the election of

respondent No.1 is vitiated, even then, the petitioner is not entitled for the relief of declaration that he should be declared as winning candidate for the reason that the petitioner has also indulged in corrupt practices as under:

- (i) The petitioner also filed false affidavit in Form No.26 along with nomination paper.
- (ii) The petitioner also suppressed the material facts regarding his income and income of his spouse and criminal case pending against him.
- (iii) The petitioner has contested to the post of Karnataka Legislative Assembly in Arakalgud Constituency on 12.5.2019. In the affidavit, he has declared his income as Rs.11,85,18,249/- and the income his wife as Rs.10,49,88,112/- in his affidavit. But in the present nomination paper, he has shown his income as Rs.12,04,59,322/- and his wife's income as Rs.2,20,06,488/- for the same assessment year 2017-18.

(iv) The petitioner also not declared the Criminal Case in PCR No.171/2018-19, C.C. No.420/2018 and pendency of the appeal before the High Court.

(v) The petitioner has also filed false affidavit stating that there is no criminal case, but he has challenged the criminal case by filing Writ Petition No.16510/2018 pending in the High Court.

(vi) The petitioner has filed false affidavits for the year 2017-18 regarding his income and pendency of the cases which is contrary to Section 33A of the R.P. Act and his nomination attracts Section 100(1)(d)(i) of the R.P. Act. The petitioner was guilty of wrong information, suppression of material facts. Therefore, the election of the petitioner would have been declared as null and void.

134. Respondent No.1 further contended that there was meeting held during the election, a case was registered in Crime No.65/2019 and a case is pending in Hassan JMFC Court. The respondent No.1 also filed a

complaint before the District Election Officer against the petitioner for providing free food to the voters and the petitioner also indulged in distributing the money to the voters. The cash of Rs.2.00 lakhs was seized in a car along with pamphlets which is registered in a case in Crime No.66/2019 pending in Hassan court. Another case is registered in Crime No.34/2019 in Arsikere court for distributing the pamphlets, BJP symbol T-shirts, BJP flags. Therefore, prayed for rejecting the prayer of the petitioner to be declared as Returned Candidate.

135. In this regard, the respondent No.1 in both the cases, has given the oral evidence and also produced the documents Exs.R.1 and R.2 i.e. nomination filed by petitioner- A. Manju in E.P.No.1/2019 for the parliamentary election and the affidavit Form No.26 which is marked as Ex.R.1 and Ex.R.2 is the nomination filed by the same petitioner in Arakalgud Karnataka Legislative Assembly constituency election in the year 2019 and contended that the

affidavits filed in respect of assets and income of the petitioner and his wife, are the false affidavits. Ex.R.1 reveals the income of the petitioner for the financial year 2017-18 and as per his declaration, the amount was Rs.12,04,59,322/- and the said petitioner filed in the affidavit in the M.L.A. election declaring his income as Rs.11,86,16,249/- for the same year 2017-18. There is difference in both the figures and affidavits filed in the year 2018-19 for the same financial year 2017-18. Likewise, the income of the wife Thara Manju Gowda, declared in the parliamentary constituency in Ex.R.1 was shown as Rs.2,20,08,488/- whereas in the M.L.A. Constituency election in Ex.R.2 the income of his wife was shown as Rs.10,49,66,112/-. There is more than Rs.8.00 crores difference in the income of his wife. Though the petitioner has stated in his evidence that due to escalation of the price of the assets, he has mentioned like that, but for the same financial year 2017-18, there cannot be two different figures in the value of the property or in the income. Therefore, it

clearly reveals that the petitioner A. Manju also filed a false affidavit before the Election Commission for contesting the parliamentary election which definitely falls under the category of Section 100(1)(d) of R.P. Act, thereby the respondent proved against the petitioner that petitioner has suppressed the material facts and filed false affidavit.

136. As regards to another contention that there are criminal cases pending against the petitioner, the petitioner has stated that only one case was registered which was already quashed by the High Court in the writ petition.

137. On perusal of the evidence of the respondent and Ex.R.10 which reveals that a criminal case was registered in Crime No.64/2019 on 10.04.2019 for the offence punishable under Sections 171H and 188 of the R.P. Act, but the petitioner contested the election by filing nomination on 25.03.2019, which is prior to the registering the FIR in

Crime No.64/2019 and the said case came to be quashed by the High Court subsequently.

138. However, in Ex.R.11, another FIR was registered against the petitioner in Crime No.62/2019 on 05.04.2019. Subsequent to the filing nomination paper, a case in Crime No.66/2019 was registered on 17.04.2019 by Hassan Extension police. Another case in Crime No.34/2019 at Javagal police was registered on 17.4.2019 and a case in Crime No.65/2019 dated 14.4.2019 by Hassan extension police, a case in Crime No.171/2018 on 4.4.2018 registered against him by Hassan city police which was quashed by the High Court in W.P.No.16510/2018 under Ex.R.9 on 9.8.2021. Though the other cases were registered after filing of nomination, but Crime No.171/2018 was registered during the M.L.A. election which was challenged before the High Court in the year 2018 and the same was quashed on 9.8.2021 which means that the said Writ Petition was pending before the High Court while filing

the nomination paper under Ex.R.1 on 25.3.2019, but the same was not disclosed by the petitioner which amounts to suppression of material facts by the petitioner also. Thereby, respondent No.1 proves that the petitioner also indulged in corrupt practice and suppressed the case pending against him. Hence, I hold that respondent No.1 proved **Issue No.10** as against the petitioner in E.P. No.1/2019. Hence, the said issue in the **AFFIRMATIVE** in favour of the respondent No.1 and as against the petitioner in E.P. No.1/2019.

139. In view of the registering of various cases against the petitioner during M.L.A. election held in the year 2018 and subsequently, after filing of the nomination in the Hassan Parliamentary Constituency election and he was also involved in corrupt practices by distributing the BJP symbol caps, T-shirts, 'OM' symbols, dresses, and seizure of the cash by the flying squad, there are various cases registered against him

during the Hassan constituency election campaign. Therefore, even if the respondent No.1 is disqualified in view of the proving the case by the petitioner, but the petitioner - A. Manju is also involved in corrupt practices, suppression of material facts, regarding income and pending cases, and he also cannot be declared as returned candidate and he is unfit to be declared as Returned Candidate of Hassan constituency, as prayed by the petitioner in his petition in E.P.No.1/2019 and the prayer cannot be allowed as prayed under Section 98 C of the R.P. Act. Likewise, the prayer of the petitioner in E.P. No.2/2019 for declaring the petitioner **[E.P.No.1/2019 (who is the respondent No.2 in E.P.No.2/2019)]** as duly elected under Section 101 of R.P.Act cannot be granted.

140. Apart from that, it is unfortunate that the petitioner in E.P. No.1/2019 contested from BJP and has filed this petition against the respondent No.1 who has contested from Janatha Dal Secular political party.

When the election petitions were pending and during the course of final arguments, the election of Karnataka Legislative Assembly was declared in March 2023, and the JDS political party offered an MLA ticket to the petitioner A. Manju, and it was published in the paper. Hence, the petitioner A. Manju was summoned to the court along with the counsel and he appeared before the Court and submitted that the ticket was offered by the JDS party but he is still in the BJP party, but subsequently, the petitioner jumped to the JDS Party, took the ticket for Arakalgud constituency and he was elected as MLA.

141. It is also seen from the evidence of the petitioner in E.P. No.2/2019 - Devaraje Gowda, who is a party worker in BJP and a practicing Advocate who also contested in the subsequent MLA election under BJP political party and who has deposed before the court that the petitioner - A. Manju and himself were working for the congress political party in Karnataka and they

were opposing the JDS political party and both of them left the congress party, because the congress party made an alliance with the JDS party in the year 2018. Therefore, both of them came to BJP and the petitioner contested the MP election in the year 2019 at Hassan constituency as BJP candidate. But the petitioner - A. Manju forgetting all his previous enmities between Congress and JDS and intentionally by ignoring the pending of this election petition, he himself joined to the JDS party, during the pendency of this petition with the intention to help respondent No.1 and the petitioner has shown his hostility towards his party and ignored the pendency of his own case filed against the respondent No.1 (belongs to JDS) and he in the lust for power for the post of M.L.A./M.P. he jumped from one party to other party. Such a person has no legal right to declare himself to be elected candidate as Member of Parliament for Hassan constituency and in view of the petitioner A. Manju involved in corrupt practice, he is

not deserving candidate to be elected as winning candidate either under Section 98(c) or 101 of the R.P. Act. Apart from that, as per the judgment of the Hon'ble Supreme Court, when there were only 2 candidates who contested, then only the Court can declare the petitioner as elected as returned candidate and not when there were more than 2 candidates. Herein, in this case, there are more than 2 candidates, this petitioner and respondent No.1 in E.P.No.1/2019. In view of the judgment of the Hon'ble Supreme Court in the case of **MUNIRAJUGOWDA B.M. VS. MUNIRATHNA AND OTHERS** reported in **2020 (10) SCC 192.** Hence, **Issue Nos.7 and 9** in E.P.No.2/2019 and **Issue No.12** in E.P.No.1/2019 are answered in the **NEGATIVE** against petitioners in both cases and the relief sought by them to declare the petitioner A. Manju as the winning candidate is to be rejected and the Recrimination Petition filed by respondent No.1 deserved to be allowed.

142. **Issue No.12 in E.P. No.2/2019:**

Whether the respondent No.1 proves that the election petition is liable to be dismissed for non compliance of Section 81(3) of R.P. Act?

The respondent has filed statement of objections and also an application for rejecting the petition for non-compliance and filing the defective election petition.

143. Though this issue is framed by this Court in E.P.No.2/2019, but there are no such issues framed in E.P.No.1/2019. However, respondent No.1 filed separate interlocutory application for dismissing both the petitions for non compliance and both the petitioners had approached Hon'ble Supreme Court and the Hon'ble Supreme Court set aside the order of dismissal and remanded the matter back for trial, however, permitted the respondent to raise grounds in

the trial. Subsequently, this Court took up the case for trial and framed issues.

144. Respondent No.1 has contended that Section 81(1) of R.P. Act mandates that the election petition should be filed within 45 days from the date of election of the returned candidate, Section 81(3) specifies every election petition shall be accompanied as many copies of election petitions and every such copy shall be attested by the petitioner under his own signature to be true copies of the petition. Respondent No.1 further contended that as per Section 83(2) of R.P. Act, any schedule or annexures to the petition should also be signed by the petitioner and verified in the same manner as in the petition. It is further contended that as per Section 86(1) of the R.P. Act, that the High Court shall dismiss the election petition which does not comply the provisions of Sections 81, 82 or 117 of the R.P. Act. It is further contended that respondent No.1 was declared as returned candidate on

23.5.2019 and the petitions have to be filed within 45 days from 23.5.2019 i.e. on or before 6.7.2019, but the petitions came to be filed with full of fundamental defects to the root of the matter. It is also contended that objection was raised by the office and later, it was complied. By that time, it was 66 days. Therefore, petitions are barred by limitation and it cannot be said that it was filed within 45 days.

145. In support of his contention, the learned Senior Counsel for respondent No.1 relied upon the judgments of the Hon'ble Supreme Court as well as the judgment of Bombay High Court and the judgments of the Co-ordinate Bench of this Court.

146. Per contra, learned Senior Counsel for the petitioner in E.P.No.1/2019 contended that the office objections are complied as per the time granted by the court and there is no delay in filing the petition as the petition was filed within 45 days. and the Hon'ble Supreme Court has already set aside the order of

dismissal on technical grounds. Therefore, prayed for allowing the petition.

147. The learned Senior Counsel for the petitioner in E.P.No.2/2019 has contended that there is no delay in filing the petition, the petition was filed on 6.7.2019 and the matter was placed before the Court and a week's time was granted for complying the office objections and the office objections were complied as per the direction of this Court. It is contended that as per Rule 10 of the Karnataka High Court Rules, the office can grant 3 days time for curing the defect or the time granted by the Judge. Accordingly, this Court granted time and objection was complied by the petitioner. Therefore absolutely, there is no non-compliance or defect in the petition. Therefore, on that ground, the petition cannot be dismissed.

148. Having heard the rival arguments of learned counsel for the parties, perused the records.

149. The Hon'ble Supreme Court in the case of **SATYA NARAIN Vs. DHUJA RAM** reported in **1974(4) SCC 237**, has upheld the dismissal order passed by the Punjab and Haryana High Court wherein the said High Court dismissed the petition on the ground that the requisite number of spare copies of the petition were not filed and the defect was not cured within limitation. It is further held that, in the absence of any provision of the Act or the Rules made there under, the High Court Rules cannot confer upon Registrar or Deputy Registrar to permit correction or removal of defect in a election petition and the petition presented beyond the limitation. The same view was taken by Hon'ble Supreme Court in the case of **SHARIF-UD-DIN Vs. ABDUL GANI LONE** reported in **1980(1) SCC 403**.

150. The Bombay High Court in the reported case in **2018 SCC online Bombay 175** in the case of **GILBERT JOHN MENDONCA Vs. NARENDRA**

LALCHANDJI MEHTA has held that if the defects are not cured within 45 days, the election petition is liable to be dismissed. In the case of **LACHHMAN DAS ARORA Vs. GANESHI LAL** reported in **1999(8) SCC 532** and in the case of **AJAY GUPTA vs. RAJU** reported in **2016(14) SCC 314**, the Hon'ble Supreme Court has held that the law of limitation has to be applied with all its vigor, and the Courts and Tribunals cannot extend the period of limitation in respect of election petition. In the case of **C. KANNAN Vs. RETURNING OFFICER** reported in **ILR 1989 KAR 1081**, it has been held that if the mandatory requirements of Section 83(1) and (2) of R.P. Act are not complied, the election petition is liable to be dismissed.

151. The learned Senior Counsel for the petitioner in E.P. No.2/2019 contended that there is no defect in the petition. The learned Senior Counsel for respondent No.1 has contended that :

- (i) Annexures are signed and verified by the petitioner and there is original signature;
- (ii) Every copy of petition to be attested as true copy by the petitioner under his original signature;
- (iii) Annexures to be verified.

152. Though the learned Senior Counsel for respondent No.1 has contended that the prescribed security deposit was not made etc., but on perusal of the petition, it was filed on 6.7.2019 at 12.45 p.m., and the petitioner produced the certificate of scrutiny and cost deposit of Rs.2,000/- along with 1+3 copies and 6 copies of respondent.

153. On perusal of the check slip of the office, which reveals that in respect of presentation along with the copies, payment of deposit, answered as 'yes' and the petition was presented as per the Rules.

154. Sl.No.2 also stated as 'yes', petition filed within the period of limitation.,

Sl. Nos.3, 4, 5, 6, 7, 8 are stated as 'yes'.

Sl. No.9, if any schedule for annexure filed with petition, if so signed or verified, for that it is stated 'no' and each page of the annexures to be signed by the petitioner in the main petition along with 3 copies, for that it is mentioned by the office that on 19.7.2019, the petitioner signed and verified all the annexures as per the date given by this Court.

155. As regards to Sl.No.10, 11, 12, 13, 14, there is no defect in the petition.

In respect of Sl.No.15 - the signing of the petition by the petitioner, the office has stated that the petitioner has complied.

In respect of Sl.No.16, it is also complied.

In respect of Sl.No.17, it is stated that the affidavit in form No.25 should be filed. For that the office has endorsed that the affidavit filed along with the petition itself, therefore, it is complied and thereby, there is no defect.

Sl.No.18 to 20 stated as 'Yes'.

In respect of Sl.No.21, translation required to be filed.

156. In respect of other objections, the office made endorsement that the petitioner has complied all the office objections and the objections at Sl.Nos.22(3), 22(4), 22(5), 22(6), 22(8), 22(9), 22(10), 22(15) and 22(16) are complied on 15.7.2019 itself.

The office has also endorsed that all the English translation also filed in respect of Sl.No.14.

157. Rule 10 of The Karnataka High Court Election Rules, reads as under:

"10. Immediately after the time fixed for the removal of objections, the petition shall be placed before the Judge for such orders as may be required to be passed under section 86 of the Act. If the petition is not dismissed under sub-section(1) of section 86 of the Act, a summons on the direction of the Judge, shall be issued to the respondents to appear before the High Court on a date specified in the summons and answer the claim or claims made in the petition. Such date

shall not be earlier than three weeks from the date of the issue of the summons. The summons shall be for written-statement and settlement of issues and shall be served by sending the summons to the respondent to the address given by the petitioner by registered post prepaid for acknowledgement."

On reading of Rule 10 of The Karnataka High Court Election Rules, it clearly provides that, if any defect or error, the objection should be brought to the notice of the party or advocate, and it shall be removed within 3 days, and thereafter, the office objection shall be cured within further time as extended by the Judge.

158. In this case, the petitioners have complied the office objections and on perusal of the order sheet of this Court, dated 26.07.2019 it is observed as under:

" The office objection relating to production of full edition of news paper at Annexures Z1, Z2, Z3 and Z4 is kept open. All other objections are complied.

Heard the learned counsel for the petitioner.

Perused the petition requirements of Sections 81 and 82 are satisfied in terms of Rule 10 of the Election Petition Rules, dated 28.3.1967.

Issue summons to the respondent to appear before the court on 19.8.2019 in person or through advocate to answer the claims made in the petition and also to submit the written statement and for the settlement of issues.

List this matter on 19.8.2019."

159. On reading the aforesaid order sheet, the petitioners have categorically stated that all the objections are complied, production of news paper is kept open and after the satisfaction, the summons were issued. However, subsequently, the respondent filed an application for dismissal of the petition for non compliance of office objection and hence, the petition came to be dismissed, later, the same was set aside by the Hon'ble Supreme Court and remitted the matter back. Therefore, in my considered view, there is no

defect in the petition under Section 81(3) of the R.P. Act and the petition cannot be dismissed on the ground that the petition was barred by limitation. Therefore, the contention of the learned Senior Counsel for respondent No.1 cannot be acceptable.

160. Though there is no issue framed in respect of limitation, but the respondent's counsel argued that the petition was filed within 45 days and it was filed with defects. However, the check slip of the office reveals that there were some errors, but the same was rectified by the petitioner's counsel within the prescribed time and subsequently, this Court held on 26.7.2019 that the petitioner complied the office objection and the petition is in accordance with requirements of Sections 81 and 82 of R.P. Act and in terms of Rule 10 of Election Petition Original Rules (28.3.1967). Therefore, summons were issued to respondents. Subsequently, the petition came to be dismissed by this Court and the same was set aside by

the Hon'ble Supreme Court in SLP and remanded the matter back. Therefore, the petition cannot be dismissed as barred by limitation.

161. The learned Senior counsel for the petitioner in E.P.No.2/2019 has relied upon the judgment of the Hon'ble Supreme Court in the case of **CHANDRAKANT UTTAM CHODANKAR VS. DAYANAND RAYU MANDRAKAR AND OTHERS** reported in **AIR 2005 SC 547**, wherein, the Hon'ble Supreme Court has held that copies of alleged election petition have been supplied by the Registry of High Court to the learned counsel for the respondent / Returned candidate were one which were not submitted by the Election petitioners for service of copies supplied and rejection of the Election petition is not correct, when the true copies of the same were duty supplied to the respondent. It is also held that a defective verification is not fatal to the maintainability of the petition. Therefore, the Election Petition cannot be

dismissed on the ground that there was defect in the petition.

162. Though the learned Senior Counsel for respondent No.1 relied upon various judgments in respect of the merits of the case that without pleading, no amount of evidence can be looked into, the booth capturing shall be proved beyond reasonable doubt, etc., but this Court found that there is pleading and evidence, both oral as well as documentary in order to show that there was corrupt practice, suppression of facts and non payment of taxes, and various allegation made in the petition has been proved by the petitioner especially in E.P. No.2/2019. Therefore, the arguments of learned Senior Counsel for respondent No.1 cannot be acceptable for dismissing the petition. Hence answered the **Issue No.12** in E.P.No.2/2019 in the **NEGATIVE.**

163. The learned Senior counsel for the respondent has relied upon the judgment of Hon'ble

Supreme Court in the case of **R.P.MOIDUTTY VS. P.T.KUNJU MOHAMMAD AND ANOTHER** reported in **(2000) 1 SCC 481**, where the Hon'ble Supreme Court has held that the election of the successful candidate is not to be set aside lightly until the case was proved by the petitioners in accordance with law.

164. In another judgment in the case of **M.J. JACOB VS. A.NARAYANAN AND OTHERS** reported in **(2009) 14 SCC 318**, wherein the Hon'ble Supreme Court has held that the mandate of the people has expressed in the election results must be ordinarily respected by Courts and the election of successful candidates should not be likely set aside.

165. In another judgment in the case of **THE NEW INDIA ASSURANCE COMPANY LTD. VS. C. PADMA AND ANOTHER** reported in **(2003) 7 SCC 713** that the burden of proof of corrupt practice is heavy on the petitioner.

166. Another judgment in the case of **GAJANAN KRISHNAJI BAPAT AND ANOTHER VS. DATTAJI RAGHOBALI MEGHE AND OTHERS** reported in **(1995) 5 SCC 347**, wherein the Hon'ble Supreme Court held that onus heavily on the petitioner to establish charge of corrupt practice and burden of proof is on the petitioner.

167. In another judgment in the case of **PRADIP BURAGOHAIN VS. PRANATI PHUKAN** reported in **(2010) 11 SCC 108**, the Hon'ble Supreme Court has held that the charge of corrupt practice like criminal charge must be proved beyond reasonable doubt.

168. In another judgment in the case of **JOSEPH M PUTHUSSERY VS. T.S.JOHN AND OTHERS** reported in **(2011) SCC 503**, wherein the Hon'ble Supreme Court has held that an election trial where corrupt practice is alleged to be conducted as a criminal trial and hence, standard of proof beyond reasonable doubt needs to be adopted.

169. In another judgment in the case of **RAHIM KHAN VS. KHURSHID AHMED AND OTHERS**

reported in **(1974) 2 SCC 660**, wherein the Hon'ble Supreme Court has held that danger of believing oral evidence in an Election Petition and its face value without backing of sure circumstances and indubitable document is required to be emphasized.

170. On perusal of the principle laid down by the Hon'ble Supreme Court in the above said cases and here in this case, petitioners in both the cases have lead oral evidence as well as documentary evidence along with the material objects by examining election officials, Deputy Commissioner, Income Tax officials and others along with the certified copies of the public documents and proved the issues framed by the Court in respect of corrupt practices as well as more expenditures, proxy voting, non disclosure of material facts in the nomination form, giving wrong information, avoiding taxes were all proved beyond reasonable doubt.

Therefore, the above said judgments are helpful to the petitioners' case rather than the respondent.

171. In view of my findings in issues in both the cases answered against the respondent No.1 and in favour of the petitioners that the petitioners have proved the issues framed by the Court and the corrupt practices of the respondent No.1 in the Hassan Parliamentary Election regarding non disclosure of material facts, wrong disclosure of the value of the properties, evading taxes, proxy voting, exorbitant expenditures than the limit prescribed by the Election Commission of India, wrong acceptance of nomination paper by the Returning Officer. The election of the returned candidate / respondent No.1 is liable to be set aside as prayed by the petitioners in both the cases.

172. However, in view of the respondent No.1 proving the fact that the petitioner in E.P.No.1/2019 also involved in corrupt practices in Recrimination Petition and he is also not deserving as declared as

returned candidate, therefore, even the respondent No.1 once election declared as void, but the petitioner A.Manju in E.P.No.1/2019 cannot be declared as returned candidate.

173. In respect of the prayer of the petitioner in E.P.No.2/2019 that due to the corrupt practice committed by H.D.Revanna and Suraj who are the father and brother of respondent No.1 who were also involved in the corrupt practices for helping the respondent No.1 in electing him as returned candidate in which the petitioner successful in proving that H.D.Revanna, father of the respondent No.1 involved in corrupt practice by diverting the funds allocated to Cauvery Neeravari Nigama Limited by misusing his official position as District In-charge Minister of Hassan District and the uncle of respondent No.1- H.D.Kumaraswamy, the then Chief Minister of the State and Chairman of the Cauvery Neeravari Nigama Limited also diverted the fund towards the other developments

in the District were all helped the respondent No.1 for getting elected by the voters. Apart from that, H.D. Revanna also actively participated in proxy voting at Booth No.244 of Padavalahippe Village and casted the votes in favour of the respondent No.1. It is also corrupt practice which was proved by the petitioner in E.P.No.2/2019. However, the petitioner not named H.D. Kumaraswamy or the mother of the respondent Bhavani Revanna in the prayer, but there were averments in the petition as well as in the evidence both oral as well as documents apart from the CCTV Footage and Hard Disc were all shows the family members of the respondent No.1 involved in the corrupt practices. Therefore, H.D.Revanna involved in throughout corrupt practices in helping respondent No.1, who is his son and the others are all having little role to play. Therefore, it is necessary to issue notice to H.D.Revanna and Suraj Revanna to show cause as to why they should not be so named as per Section 99(a)(ii) of R.P. Act in E.P.No.2/2019.

174. In view of the above discussions and findings on the issues, I proceed to pass the following order:

(i) Both the election petitions filed by the petitioners in E.P. No.1/2019 and 2/2019 are allowed in part.

(ii) The election of returned candidate respondent No.1 namely, Prajwal Revanna @ Prajwal R, Member of the Parliament Constituency-16 Hassan (General) having been declared as returned candidate dated 23.05.2019 as per Form No.21(c), is hereby declared as null and void.

(iii) The Recrimination Petition filed by respondent No.1 in E.P. No.1/2019 is allowed.

(iv) The prayer of the petitioners in both cases to declare Sri A. Manju, the petitioner in E.P. No.1/2019, as returned candidate, is rejected in view of the findings that, he himself involved in corrupt practices.

(v) Sri H.D. Revanna and Sri Suraj Revanna are named in terms of Section 99(1)(a)(2) of R.P. Act for having committed corrupt practice at the time of election and also Sri A. Manju, the petitioner in E.P. No.1/2019, who is also involved in corrupt practice.

(vi) Issue notices to Sri H.D. Revanna and Sri Suraj Revanna in terms of Proviso (a) to Section 99(a)(ii) of R.P. Act.

(vii) Registry to comply with the mandate under Rule 19 of Election Petitions Procedure Rules, Karnataka, by sending copy of this order to the Election Commission and the Hon'ble Speaker of the House of Parliament.

**Sd/-
JUDGE**

ANNEXURE

**LIST OF WITNESSES EXAMINED ON BEHALF OF
PETITIONER**

P.W.1 : Sri. A Manju (In E.P. No.1/2019)
 &
 Sri. G. Devaraje Gowda (In E.P. No.2/2019)

P.W.2 : Sri. R Girish
(In E.P. Nos.1/2019 & 2/2019)

P.W.3 : Sri. Kiran C.
(In E.P. Nos.1/2019 & 2/2019)

P.W.4 : Smt. Ambika Patel G.P.
(In E.P. Nos.1/2019 & 2/2019)

P.W.5 : Sri Sathish Kishore K
(In E.P. Nos.1/2019 & 2/2019)

P.W.6 : Sri Sathyan S
(In E.P. No.2/2019)

P.W.7 : Sri Shivanna S
(In E.P. No.2/2019)

P.W.8 : Sri. B.M. Mohan Kumar Pandit
(In E.P. Nos.1/2019 & 2/2019)

P.W.9 : Smt. V. Annapoorna
(In E.P. Nos.1/2019 & 2/2019)

P.W.10 : Sri. N. Tejesh Kumar
(In E.P. Nos.1/2019 & 2/2019)

P.W.11 : Dr. Abhinav Pitta
(In E.P. Nos.1/2019 & 2/2019)

P.W.12 : Sri. Praveen Sinha
(In E.P. Nos.1/2019 & 2/2019)

P.W.13 : Sri. N. Nagaraj
(In E.P. Nos.1/2019 & 2/2019)

P.W.14 : Sri. Mayanna
(In E.P. Nos.1/2019 & 2/2019)

P.W.15 : Sri. Yogeesha V
(In E.P. Nos.1/2019 & 2/2019)

P.W.16 : Sri. Gurumurthy M.S
(In E.P. No.2/2019)

P.W.17 : Sri. A.E. Venugopal
(In E.P. No.2/2019)

P.W.18 : Sri. Shankare Gowda
(In E.P. No.2/2019)

P.W.19 : Smt. Archana M.S.
(In E.P. No.2/2019)

P.W.20 : Sri. Nataraj Dodmani
(In E.P. No.2/2019)

P.W.21 : Sri. Logan P.
(In E.P. No.2/2019)

P.W.22 : Sri. K.N. Channegowda
(In E.P. No.2/2019)

P.W.23 : Sri. B.V. Mallikarjunaiah
(In E.P. No.2/2019)

**LIST OF WITNESSES EXAMINED ON BEHALF OF
RESPONDENTS**

R.W.1 : Sri. Prajwal Revanna
(In E.P. Nos.1/2019 & 2/2019)

R.W.2 : Sri Nagin Chand Kincha
(In E.P. Nos.1/2019 & 2/2019)

R.W.3 : Sri G. Ramakrishnan
(In E.P. Nos.1/2019 & 2/2019)

**List of documents on behalf of the petitioner
in E.P. No.1/2019**

Ex.P.1 : Certified copy of Affidavit (Form No.26) of Respondent No.1

Ex.P.2 : Certified copy of the written objection dated 27.03.2019

Ex.P.2(a) : Certified copy of Company Master data pertaining to M/s. Adikarah Ventures LLP

Ex.P.2(b) : Certified copy of Certificate of incorporation (Form 16) of M/s. Drone Work Force LLP

Ex.P.3 : Certified copy of the report of the returning officer dated 27.03.2019

Ex.P.4 : The acceptance of nomination of Respondent No.1 dated 27.03.2019

Ex.P.5 : Certified copy of the report of Deputy Commissioner dated 12.11.2020

Ex.P.5(a) : Certified copy of details of non disclosure of partnership form in respect of M/s. Adikarah Ventures LLP and M/s. Drone Work Force LLP - (Annexure-B)(i)

Ex.P.5(b) : Certified copy of details of movable assets of Respondent No.1 - (Annexure-B)(ii)

Ex.P.5(c) : Certified copy of details of immovable assets and its value at the time of purchase by Respondent No.1 - (Annexure-B)(iii)

Ex.P.5(d) : Certified copy of value of the property at the time of filing nomination of Respondent No.1 - (Annexure-B)(iv)

Ex.P.6 : Certified copy of Form No.21E dated 23.05.2019

Ex.P.6(a) : Certified copy of Form No.21C

Ex.P.6(b) : Certified copy of Certificate of Election of respondent No.1 - Form No.22

Ex.P.7 : Certified copy of The reply of the Karnataka Bank Manager dated 13.06.2019

Ex.P.8 : Certified copy of RTC in respect of Sy. No.16/3 of Bhavikere, Kasaba Hobli, Nelamangala Taluk

Ex.P.8(a) : Certified copy of RTC in respect of Sy. No.17/2 of Bhavikere, Kasaba Hobli, Nelamangala Taluk

Ex.P.8(b) : Certified copy of RTC in respect of Sy. No.13/2 of Bhavikere, Kasaba Hobli,

Nelamangala Taluk

Ex.P.8(c) : Certified copy of RTC in respect of Sy. No.3/1 of Srirampura, Kasaba Hobli, Mysore

Ex.P.8(d) : Certified copy of RTC in respect of Sy. No.3/3 of Srirampura, Kasaba Hobli, Mysore

Ex.P.8(e) : Certified copy of encumbrance certificate produced in respect of properties of respondent No.1 dated 03.06.2019

Ex.P.8(f) : Certified copy of encumbrance certificate produced in respect of properties of respondent No.1 dated 25.05.2019

Ex.P.8(g) : Certified copy of encumbrance certificate produced in respect of properties of respondent No.1 dated 24.06.2019

Ex.P.8(h) : Certified copy of encumbrance certificate produced in respect of properties of respondent No.1 dated 18.06.2019

Ex.P.8(i) : Certified copy of Notification dated 01.01.2019 produced by P.W.1

Ex.P.8(j) : Certified copy of Guidance value of the properties issued by Sub-Registrar, Holenarasipura, dated 16.09.2020

Ex.P.8(k) : Certified copy of Guidance value of the properties issued by Sub-Registrar, Nelamangala, dated 05.10.2020

Ex.P.8(l) : Certified copy of Guidance value of the properties issued by Sub-Registrar,

Mysore, dated 30.09.2020

Ex.P.8[!(a)] : Signature of Sub-Registrar, Mysore District, Mysore

Ex.P.8(m) : Certified copy of Guidance value of the properties issued by Sub-Registrar, Hassan, dated 16.09.2020

Ex.P.9 : Certified copy of the assets and liabilities declaration filed Sri.H.D.Revanna dated 30.07.2018

Ex.P.9(a) : Certified copy of assets and liabilities declaration given to Lokayuktha at Schedule (V)

Ex.P.9(b) : Relevant entry is at serial No.4 in Schedule (V)

Ex.P.10 : Copy of document pertaining to M/s. Adhikara Ventures LLP issued by Deputy Registrar of Companies, Karnataka dated 23.10.2017

Ex.P.10(a) : Certified copy of Form No.2 in respect of M/s. Adhikara Ventures LLP dated 08.11.2017

Ex.P.10(b) : Certified copy of optional attachment No.1 dated 19.03.2019

Ex.P.10(c) : Certified copy of LLP Form No.4 (Resignation of Respondent No.1 - M/s. Adhikarah Ventures LLP)

Ex.P.10(d) : Certified copy of optional attachment No.2

dated 19.03.2019

- Ex.P.10(e) : Certified copy of Evidence of Cessation dated 19.03.2019
- Ex.P.10(f) : Certified copy of amended agreement in respect of M/s. Adhikarah Ventures LLP
- Ex.P.11 : Copy of document pertaining to M/s. Drone Work force LLP issued by Deputy Registrar of Companies, Karnataka dated 13.10.2017
- Ex.P.11(a) : Certified copy of Form No.2 in respect of M/s. Drone Work Force LLP dated 24.10.2017
- Ex.P.11(b) : Certified copy of optional attachment No.1 dated 19.03.2019
- Ex.P.11(c) : Certified copy of LLP Form No.4 (Resignation of Respondent No.1 - M/s. Drone Work Force LLP)
- Ex.P.11(d) : Certified copy of optional attachment No.2 dated 19.03.2019
- Ex.P.11(e) : Certified copy of Evidence of Cessation dated 19.03.2019
- Ex.P.11(f) : Certified copy of amended agreement in respect of M/s. Drone Work Force LLP
- Ex.P.12 : Certified copy of the account extract issued by Karnataka Bank Ltd. dated 21.07.2022
- Ex.P.12(a) : Seal and Signature of P.W.5
- Ex.P.13 : Certified copy of certificate by Bank

Manager, Karnataka Bank Ltd. dated
22.07.2022

Ex.P.13(a) : Seal and Signature of P.W.5

Ex.P.14 : Certified copy of the Gazette Notification
dated 01.01.2019 produced by P.W.8

Ex.P.14(a) : Certified copy of the relevant entry in
respect of value of land in Sy.No.3
situated at Srirampura Village, Mysore
(Sl.No.306 at page No.242)

ANNEXURE

List of documents on behalf of the petitioner in E.P. No.2 / 2019

Ex.P.1 : Copy of the Voters List

Ex.P-1(a) : The name of petitioner-Sri Devaraje Gowda is in the copy of the voters list.

Ex.P-1(b) : Copy of Voter I.D. card of petitioner-Sri Devaraje Gowda

Ex. P-2 : Certified copy of Form No.21C

Ex.P-3 : Certified copy of objection dated 27.03.2019 filed by the petitioner - A. Manju

Ex.P-4 : Certified Copy of acceptance of nomination (Form No.2A) of Respondent No.1

Ex.P-5 : Certified Copy of the Affidavit (Form No.26) of Respondent No.1

Ex.P-5(a) : Certified copy of details in respect of investment made in the Bonds, debentures/shares etc. by the respondent No.1

Ex.P-6 : Copy of Pamphlet

Ex.P-7 : Certified copy of complaint filed to the Chief Electoral Officer dated 29.04.2019

Ex.P-7(a) : True copy of complaint given to Chief Electoral Officer dated 17.05.2019

Ex.P-8 : Certified copy of the report of the Deputy Commissioner dated 17.05.2019

Ex.P-9 : Certified copy of the report of Deputy

Commissioner dated 12.11.2020

Ex.P-9(a) : Certified copy of Annexure-B(i) in the report of Deputy Commissioner dated 12.11.2020

Ex.P-9(b) : Certified copy of Annexure-B(ii) in the report of Deputy Commissioner dated 12.11.2020

Ex.P-9(c) : Certified copy of Annexure-B(iii) in the report of Deputy Commissioner dated 12.11.2020

Ex.P-9(d) : Certified copy of Annexure-B(iii) in the report of Deputy Commissioner dated 12.11.2020

Ex.P-10 : Copy of Sale deed dated 15.09.2010

Ex.P-10(a) : Typed copy of Sale deed dated 15.09.2010

Ex.P-11 : Copy of Sale deed dated 15.09.2010

Ex.P-11(a) : Typed copy of sale deed dated 15.09.2010

Ex.P-12 : Certified copy of RTC in Sy.No.9/7

Ex.P-12(a) : Certified copy of RTC in Sy.No.16/4

Ex.P-13 : Certified copy of RTC in Sy.No.16/3

Ex.P-13(a) : Certified copy of RTC in Sy.No.13/2

Ex.P-13(b) : Certified copy of RTC in Sy.No.17/2

Ex.P-13(c) : Certified copy of RTC in Sy.No.3/1

Ex.P-13(d) : Certified copy of RTC in Sy.No.3/3

Ex.P-14 : Certified copy of letter dated 27.05.2015 issued

by Town Municipality, Holenarasipura in respect of Chennambika Convention Hall.

- Ex.P-14(a) : Certified copy of license in respect of Chennambika Convention hall
- Ex.P-14(b) : Certified copy of plan of the building in respect of Chennambika Convention hall
- Ex.P-15 : Certified copy of Company Master data pertaining to M/s.Adhikarah Ventures LLP.
- Ex.P-15(a) : Certified copy of Company Master data pertaining to M/s.Drona Work Force LL.P
- Ex.P-16 : Certified copy of the FIR in Crime No.59/2019 and complaint dated 16.04.2019
- Ex.P-17 : Copy of the complaint of Sri Gavirangegowda
- Ex.P-17(a) : Copy of acknowledgment dated 14.6.2019
- Ex.P-17(b) : Copy of work order issued for the project of Kaveri Neeravari Nigama Limited (CNNL)
- Ex.P-18 : Copy of transcribed version of conversation between the petitioner-Devaraje Gowda and Assistant Flying Squad
- Ex.P-19 : Certified copy of the letter dated 04.05.2018 issued by the Public Information Officer (dictated as - Certified copy of suspension orders issued by the District Election Officer dated 04.05.2018)
- Ex.P-19(a) : Certified copy of suspension orders issued by the Deputy Commissioner, Hassan District dated

27.04.2019

Ex.P-20 : Certified copy of FIR in Cr. No.41/2019 and complaint dated 12.04.2019

Ex.P-20(a) : Certified copy of Complaint dated 11.04.2019

Ex.P-20(b) : Certified copy of the Proceedings issued by the Deputy Commissioner dated 10.04.2019

Ex.P-21 : Copy of FIR in Crime No.24/2019 dated 03.04.2019 along with Complaint

Ex.P-22 : Copy of FIR in Crime No.26/2019 dated 09.04.2019 along with Complaint

Ex.P-23 : Certified copy of expenditure declared by Respondent No.1

Ex.P-24 : Certified copies of the news paper cuttings of Vijaya Karnataka dated 16.04.2014

Ex.P-25 : Certified copy of the extract of fixed deposit details of respondent No.1 produced by witness No.6 (PW-6)

Ex.P-25(a) : Signature of the witness No.6 (PW-6)

Ex.P-26 : Certified copy of the extract of fixed deposit details of respondent No.1 produced by witness No.7 (PW-7)

Ex.P-26(a) : Signature of the witness No.7 (PW-7)

Ex.P-27 : Certified copy of the extract of fixed deposit details of respondent No.1 produced by witness No.5 (PW-5)

Ex.P-27(a) : Signature of the witness No.5 (PW-5)

Ex.P-28 : Certified copy of the extract of fixed deposit details of respondent No.1 produced by PW-5

Ex.P-28(a) : Seal and signature of the witness No.5 (PW-5)

Ex.P-29 : Certified copy of the extract of fixed deposit details of respondent No.1 produced by PW-10 dated 29.04.2011

Ex.P-30 : Certified copy of ITR for the assessment year 2017-18 in respect of respondent No.1.

Ex.P-30(a) : Signature of P.W.11

Ex.P-31 : Certified copy of ITR for the assessment year 2018-19 in respect of respondent No.1.

Ex.P-31(a) : Signature of P.W.11

Ex.P-32 : Certified copy of ITR for the assessment year 2020-21 in respect of respondent No.1.

Ex.P-33 : Certified copy of ITR in respect of Smt.Bhavani Revanna for the Assessment year 2018-2019

Ex.P-33(a) : Signature of P.W.11

Ex.P-34 : Certified copy of ITR in respect of Smt.Bhavani Revanna for the Assessment year 2020-21

Ex.P-34(a) : Signature of P.W.11

Ex.P-35 : Certified copy of ITR in respect of Sri.H.D Revanna for the assessment year 2009-2010

Ex.P-35(a) : Signature of P.W.12

Ex.P-36 : Certified copy of ITR in respect of Sri.H.D Revanna for the assessment year 2010-2011

Ex.P-36(a) : Signature of P.W.12

Ex.P-37 : Certified copy of ITR in respect of Sri.H.D Revanna for the assessment year 2011-2012

Ex.P-37(a) : Signature of P.W.12

Ex.P-38 : Certified copy of ITR in respect of Sri.H.D Revanna for the assessment year 2012-2013

Ex.P-38(a) : Signature of P.W.12

Ex.P-39 : Certified copy of ITR in respect of Sri.H.D Revanna for the assessment year 2013-2014

Ex.P-39(a) : Signature of P.W.12

Ex.P-40 : Certified copy of ITR in respect of Sri.H.D Revanna for the assessment year 2014-2015

Ex.P-40(a) : Signature of P.W.12

Ex.P-41 : Certified copy of ITR in respect of Sri.H.D Revanna for the assessment year 2015-2016

Ex.P-41(a) : Signature of P.W.12

Ex.P-42 : Certified copy of ITR in respect of Sri.H.D Revanna for the assessment year 2016-2017

Ex.P-42(a) : Signature of P.W.12

Ex.P-43 : Certified copy of ITR in respect of Sri.H.D Revanna for the assessment year 2017-2018

Ex.P-43(a) : Signature of P.W.12

Ex.P-44 : Certified copy of ITR in respect of Sri.H.D Revanna for the assessment year 2018-2019

Ex.P-44(a) : Signature of P.W.12

Ex.P-45 : Certified copy of work details containing in a booklet issued by Chief Engineer, CNNL.

Ex.P-46 : Covering Letter dated 16.08.2022

Ex.P-46(a) : Signature of P.W.13

Ex.P-47 : Certified copy of Statement of Accounts of Channambika Convention Hall dated 02.09.2022

Ex.P-48 : Certified Copy of account opening form in respect of Chennambika Convention Hall along with Annexures

Ex.P-49 : Certified copy of Statement showing the zonal grant and expenditure for the month of March 2019

Ex.P-50 : Certified copy of list of Directors - 59th Board meeting (Cauvery Niravari Nigam Limited) dated 08.07.2017

Ex.P-51 : Certified copy of list of Directors - 61st Board meeting (Cauvery Niravari Nigam Limited) dated 27.01.2018

Ex.P-52 : Certified copy of grant released by the Finance Department for the Year 2017-2018

Ex.P-52(a) : Certified copy of grant released by the Finance Department for the Year 2018-2019

Ex.P-53 : Copy of Certificate of P.W.19 under Section 65B of Evidence Act

Ex.P-53(a) : Signature of P.W.9

Ex.P-53(b) : Signature of P.W.9

Ex.P-53(c) : Signature of P.W.9

Ex.P-54 : Copy of Prajavani News paper dated 16.04.2019

Ex.P-54(a) : Copy of the relevant page 7B of Prajavani News paper dated 16.04.2019

Ex.P-55 : Copy of Tax invoice/Bill issued by the Printers (Mysore) Pvt. Ltd. dated 21.04.2019

Ex.P-56 : Copy of Vijaya Karnataka Newspaper dated 16.04.2019

Ex.P-56(a) : Copy of the relevant page of Vijaya Karnataka News paper dated 16.04.2019

Ex.P-57 : Copy of Certificate of P.W.21 (under Section 65B of Evidence Act, 1872)

Ex.P-57(a) : Signature of P.W.21

Ex.P-58 : Copy of Tax Invoice dated 17.04.2019

Ex.P-58(a) : Copy of Advertisement release order dated 15.04.2019

Ex.P-58(b) : Copy of covering letter dated 15.09.2022

Ex.P-59 : Copy of Vijayavani news paper dated 06.04.2019

Ex.P-60 : Copy of Vijayavani news paper dated 15.04.2019

Ex.P-61 : Copy of Vijayavani news paper dated 18.04.2019

Ex.P-62 : Certified copy of receipt dated 05.04.2019 of VRL Media Limited Receipt

Ex.P-62(a) : Certified copy of tax invoice dated 02.04.2019

Ex.P-62(b) : Certified copy of release order dated 27.03.2019

Ex.P-63 : Certified copy of Kannada Prabha news paper dated 16.04.2019

Ex.P-64 : Certified copy of tax invoice dated 16.04.2019

Ex.P-64(a) : Certified copy of advertisement Receipt dated 20.05.2019

Ex.P-64(b) : Certified copy of e-mail dated 26.09.2022

Ex.P-64(c) : Certified copy of agency ledger from 05.04.2019 to 16.04.2019

Ex.P-65 : Certified copy of Statement of account (Karnataka Bank Ltd., Holenarasipura Branch) in respect of Respondent No.1

Ex.P-65(a) : Signature of P.W.16

Ex.P-66 : Copy of voter's list of Holenarasipura, Hassan Constituency, booth No.244.

LIST OF EXHIBITS MARKED ON BEHALF OF
RESPONDENT (R.W.1 - PRAJWAL REVANNA)
in E.P. Nos.1/2019

Ex. R-1 : Certified copy of nomination Form (Form 26) of Petitioner Sri.A.Manju dated 23.03.2019

Ex. R-1(a) : Certified copy of total income shown in income tax return for 2017-18 in respect of the petitioner - A Manju and his wife (SI. No.5)

Ex.R-2 : Certified copy of nomination Form (Form 26) of Petitioner Sri.A.Manju dated 18.04.2018

Ex. R-2(a) : Certified copy of total income shown in income tax return for 2017-18 in respect of the petitioner - A Manju and his wife

Ex.R-3 : Certified copy of letter of Karnataka Bank Ltd. Minerva Circle, Bengaluru, dated. 10.10.2019

Ex.R-4 : Certified copy of the order of revocation of the Suspension passed by the Deputy Commissioner dated 29.11.2021

Ex.R-4 : Certified copy of the order of revocation of the Suspension passed by the Deputy Commissioner dated 29.11.2021

Ex.R-5 : Certified copy of the Sale Deed dated 15.09.2010

Ex.R-6 : Certified copy of the Sale Deed dated 15.09.2010

Ex.R-7 : Certified copy of the Sale Deed dated 15.09.2010

Ex.R-8 : Certified copy of the Will dated 04.12.2009

Ex.R-9 : Copy of the order dated 09.08.2021 in Writ Petition No.16510/2018

Ex.R-10 : Certified copy of FIR in Cr.No.64/2019 registered by Arkalgud Police Station dated 10.04.2019

Ex.R-10(a) : Certified copy of complaint dated 10.04.2019

Ex.R-11 : Certified copy of FIR in Cr.No.62/2019 at Sakaleshpur Police Station dated 05.04.2019

Ex.R-12 : Certified copy of FIR in Cr.No.66/2019 at Hassan Extension Police, dated 17.04.2019

Ex.R-13 : Certified copy of FIR in Cr.No.34/2019 at Hassan Extension Police, dated 17.04.2019

Ex.R-14 : Certified copy of FIR in Cr.No.65/2019 at Hassan Extension Police, dated 14.04.2019

Ex.R-15 : Certified copy of FIR in Cr.No.171/2018 at Hassan Extension Police, dated 04.04.2019

Ex.R-16 : Certified copy of bank statement of Karnataka Bank Ltd, Minerva Circle upto 07.03.2019.

Ex.R-17 : Certified copy of amended agreement pertaining to Adhikar Ventures LLP

Ex.R-18 : Copy of amended agreement pertaining to M/s. Drone Work force LLP

Ex.R-19 : Certified copy of death certificate of Smt.Nagarathnamma dated 29.01.2010

Ex.R-20 : Certified copy of Partnership Deed dated 16.05.2013

LIST OF EXHIBITS MARKED ON BEHALF OF
RESPONDENT (R.W.1 - PRAJWAL REVANNA)
in E.P. No.2/2019

Ex.R-21 : Certified copy of Sale Deed dated 23.11.2009 in respect of Sy. No.9/1 of Bhavikere village

Ex.R-22 : Certified copy of Sale Deed dated 23.11.2009 in respect of Sy. No.9/2 of Bhavikere village

Ex.R-23 : Certified copy of Sale Deed dated 15.09.2010 in respect of Sy. No.13/1 of Bhavikere village

Ex.R-24 : Certified copy of Sale Deed dated 15.09.2009 in respect of Sy. No.17/1 of Bhavikere village

Ex.R-25 : Certified copy of the partnership deed dated 16.05.2013

Ex.R-26 : Certified copy of Akarbandh document dated 08.12.2009 issued by Tahsildar, Nelamangala

Ex.R-27 : Certified copy of exchange deed dated 09.03.2020

Ex.R-28 : Certified copy of bank statement dated 07.10.2022 issued by Karnataka Bank Ltd., Minerva Circle, Bengaluru

Ex.R-29 : Certified copy of Gift Deed dated 22.08.2008

Ex.R-30 : Certified copy of proceedings dated 19.04.2019 of Deputy Commissioner, Hassan

Ex.R-31 : Certified copy of report of Assistant Returning Officer, Holenarasipura dated 26.04.2019

Ex.R-32 : Certified copy of abstract of statement of expenditure of Election

Ex.R-32(a) : Certified copy of relevant entry of the election expenditures (Sl.No.11 of schedule I)

Ex.R-33 : Certified copy of list of JDS Star Campaigners dated 22.03.2019

Ex.R-34 : Certified copy of list of Congress Star campaigners dated 26.03.2019

Ex.R-35 : Certified copy of requisition sought by Chipson Aviation Company dated 21.05.2019

Ex.R-35(a) : Certified copy of permission letter dated 22.05.2019

Ex.R-36 : Certified copy of the Sale Deed dated 30.07.2014 in respect of Sy. Nos.62 and 63 of Gowripura, Hassan

Ex.R-37 : Certified copy of the Sale Deed dated 30.07.2014 in respect of Sy. No.46 and 47 of Gowripura, Hassan

Ex.R-38 : Certified copy of Gift Deed dated 22.08.2008

Ex.R-39 : Certified copy of parties document 8.8.2008

Ex.R-40 : Certified copy of registered release deed dated 01.12.2011

Ex.R-41 : Certified copy of details of loan produced by R.W.1 in respect of Sri H.D. Revanna

Ex.R-41(a) : Certified copy of bank statement issued by Karnataka Bank Ltd. Minerva Circle, Bengaluru dated 17.11.2022

Ex.R-42 : Certified copy of details of loan produced by R.W.1 in respect of Smt. Bhavani Revanna

Ex.R-42(a) : Certified copy of bank statement issued by Karnataka Bank Ltd. Minerva Circle, Bengaluru dated 16.11.2022

Ex.R-43 : Copy of Break up statement of accounts in respect of loan transaction produced by R.W.1

Ex.R-43(a) : Certified copy of bank statement issued by Karnataka Bank Ltd. Minerva Circle, Bengaluru dated 17.11.2022

**Sd/-
JUDGE**

AKV/CS/GBB
List No.: 3 SI No.: 1

By Order

(B C PATRA)
SECRETARY
ELECTION COMMISSION OF INDIA

(MADHU A.C)
Assistant Chief Electoral Officer
& E/o Under Secretary to Government
D.P.A.R (Elections)